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Government History Documentation Project
Ronald Reagan Gubernatorial Era

LAW ENFORCEMENT AND CRIMINAL JUSTICE IN CALIFORNIA, 1966-1976

Herbert Ellingwood	Law Enforcement Planning and Coordination, 1969-1974
Joseph F. Gunterman	Sacramento Advocate for the Friends Committee on Legislation of California
Robert A. Houghton	Law Enforcement Planning in the Reagan Administration, 1971-1974
Jan Marinissen	"To Let the Legislature Know": Prison Advocacy and the American Friends Service Committee in California, 1960-1983
Anthony L. Palumbo	Law Enforcement, Emergency Planning, and the California National Guard, 1965-1974

Interviews Conducted by
Gabrielle Morris and Sarah Sharp
1981-1983

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PREFACE

California government and politics from 1966 through 1974 are the focus of the Reagan Gubernatorial Era Series of the state Government History Documentation Project, conducted by the Regional Oral History Office of The Bancroft Library with the participation of the oral history programs at the Davis and Los Angeles campuses of the University of California, Claremont Graduate School, and California State University at Fullerton. This series of interviews carries forward studies of significant issues and processes in public administration begun by the Regional Oral History Office in 1969. In previous series, interviews with over 220 legislators, elected and appointed officials, and others active in public life during the governorships of Earl Warren, Goodwin Knight, and Edmund Brown, Sr., were completed and are now available to scholars.

The first unit in the Government History Documentation Project, the Earl Warren Series, produced interviews with Warren himself and others centered on key developments in politics and government administration at the state and county level, innovations in criminal justice, public health, and social welfare from 1925-1953. Interviews in the Knight-Brown Era continued the earlier inquiries into the nature of the governor's office and its relations with executive departments and the legislature, and explored the rapid social and economic changes in the years 1953-1966, as well as preserving Brown's own account of his extensive political career. Among the issues documented were the rise and fall of the Democratic party; establishment of the California Water Plan; election law changes, reapportionment and new political techniques; education and various social programs.

During Ronald Reagan's years as governor, important changes became evident in California government and politics. His administration marked an end to the progressive period which had provided the determining outlines of government organization and political strategy since 1910 and the beginning of a period of limits in state policy and programs, the extent of which is not yet clear. Interviews in this series deal with the efforts of the administration to increase government efficiency and economy and with organizational innovations designed to expand the management capability of the governor's office, as well as critical aspects of state health, education, welfare, conservation, and criminal justice programs. Legislative and executive department narrators provide their perspectives on these efforts and their impact on the continuing process of legislative and elective politics.

Work began on the Reagan Gubernatorial Era Series in 1979. Planning and research for this phase of the project were augmented by participation of other oral history programs with experience in public affairs. Additional advisors were selected to provide relevant background for identifying persons to be interviewed and understanding of issues to be documented. Project research files, developed by the Regional Oral History Office staff to provide a systematic background for questions, were updated to add personal, topical, and chronological data for the Reagan period to the existing base of information for 1925 through 1966, and to supplement research by participating programs as needed. Valuable, continuing assistance in preparing for interviews was provided by the Hoover Institution at Stanford University, which houses the Ronald Reagan Papers, and by the State Archives in Sacramento.

An effort was made to select a range of interviewees that would reflect the increase in government responsibilities and that would represent diverse points of view. In general, participating programs were contracted to conduct interviews on topics with which they have particular expertise, with persons presently located nearby. Each interview is identified as to the originating institution. Most interviewees have been queried on a limited number of topics with which they were personally connected; a few narrators with unusual breadth of experience have been asked to discuss a multiplicity of subjects. When possible, the interviews have traced the course of specific issues leading up to and resulting from events during the Reagan administration in order to develop a sense of the continuity and interrelationships that are a significant aspect of the government process.

Throughout Reagan's years as governor, there was considerable interest and speculation concerning his potential for the presidency; by the time interviewing for this project began in late 1980, he was indeed president. Project interviewers have attempted, where appropriate, to retrieve recollections of that contemporary concern as it operated in the governor's office. The intent of the present interviews, however, is to document the course of California government from 1967 to 1974, and Reagan's impact on it. While many interviewees frame their narratives of the Sacramento years in relation to goals and performance of Reagan's national administration, their comments often clarify aspects of the gubernatorial period that were not clear at the time. Like other historical documentation, these oral histories do not in themselves provide the complete record of the past. It is hoped that they offer firsthand experience of passions and personalities that have influenced significant events past and present.

The Reagan Gubernatorial Era Series was begun with funding from the California legislature via the office of the Secretary of State and continued through the generosity of various individual donors. Several memoirs have been funded in part by the California Women in Politics Project under a grant from the National Endowment for the Humanities, including a matching grant from the Rockefeller Foundation; by the Sierra Club Project also under a NEH grant; and by the privately funded Bay Area State and Regional Planning Project. This joint funding has enabled staff working with narrators and topics related to several projects to expand the scope and thoroughness of each individual interview involved by careful coordination of their work.

The Regional Oral History Office was established to tape record autobiographical interviews with persons significant in the history of California and the West. The Office is under the administrative direction of James D. Hart, Director of the Bancroft Library, and Willa Baum, head of the Office. Copies of all interviews in the series are available for research use in The Bancroft Library, UCLA Department of Special Collections, and the State Archives in Sacramento. Selected interviews are also available at other manuscript depositories.

July 1982
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Project Director

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Regional Oral History Office
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Government History Documentation Project
Ronald Reagan Gubernatorial Era

Herbert Ellingwood

LAW ENFORCEMENT PLANNING AND COORDINATION, 1969-1974

An Interview Conducted by
Gabrielle Morris
1981, 1983

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INTERVIEW HISTORY

Early in the documentation of Ronald Reagan's years as governor, the project was fortunate in being able to interview Herbert Ellingwood about his six years as legal aide to Reagan. The completed oral history and the interviews that are presented with it in this volume reflect the wide range of viewpoints in the 1960s and '70s on law enforcement and criminal justice. Other narrators in the volume are Joseph Gunterman, on the longstanding interest of the Friends Committee on Legislation in criminal justice and efforts to abolish the death penalty in California; Robert Houghton, on the development of the law enforcement division of the state Department of Justice; Jan Marinissen, on American Friends Service Committee prison reform work in northern California; and Anthony Palumbo, on coordination of emergency planning among military and civilian law enforcement agencies.

Ellingwood was well qualified for the governor's legal affairs section, having been legislative representative for the district attorneys' association and executive director of the California State Bar. He was recruited by Edwin Meese, the governor's first clemency secretary, a longtime friend with whom Ellingwood had worked in the Alameda County District Attorney's office and on issues of mutual interest to the governor and the bar.

Conducted in March 1981, shortly before Ellingwood left his Sacramento law practice to join Reagan's White House staff, the first session of the interview discusses the administration's efforts at California court reform and reducing crime and to encourage individual and corporate responsibility, concerns of the governor's office that have carried over into the presidency. There was, he recalls, a "feeling of people around the governor that the root cause of crime was a lack of individual responsibility, trying to escape the consequences of your act."

The governor's priorities included elimination of the exclusionary rule and court backlogs, and what he considered to be the improvement of other aspects of legal procedure, particularly the selection and performance of judges. A considerable amount of Ellingwood's time was spent on unsuccessful efforts to obtain legislation for merit selection of judges. In the absence of such legislation, judicial appointments involved winnowing recommendations from local bar committees, legislators, and others, and frequent lengthy discussions with the governor. Ellingwood comments that most people look at judicial appointments as coming from the "top of the class", but indicates that it is not that way in all cases.

There was also concern in the governor's office about judges' isolation from society. In visits to appellate justices named by Reagan, Ellingwood recalls that he would urge them to "build roads in to you from the same community you served before you became a judge...you need people out there who can bounce off you what the public is thinking about what you're doing."

As a member of the California Council on Criminal Justice, which channeled federal Law Enforcement Assistance Administration funding to local programs, he encouraged and attended meetings that brought judges together with policemen, district attorneys, and other professionals.

It's amazing to have a policeman here and a judge here and have the conversation back and forth across the table. It's like the judge had never heard this before in his life. And the judge having to sustain his position with the public defender or the DA or a citizen that's a part of the committee ...[It's true] not just with the judiciary but with public defenders and policement, with probation officers....

Usually...the public defender doesn't believe the DA and the DA doesn't believe the public defender, and the policeman doesn't believe the probation officer....[I]t's in your own mind black and white; there are not a lot of gray areas. This opened up--and to find out it's basically all gray... and you're [all] trying to find out what's the best way to do it.

The second session of the interview deals with the development of emergency services, another significant legal affairs interest of Reagan's gubernatorial administration. Using the People's Park demonstrations of May 1969, when events at the University of California spilled onto the streets of Berkeley, Ellingwood explains the complexity of coordinating law enforcement units from different jurisdictions in response to public disturbance, and the multiple civil and civic concerns that must also be considered.

[I]t was very important for them [law enforcement units] to be a constant part of all the planning process.... Everybody had to see themselves in a new light, in a cooperative relationship....[The city authorities were very important as a part of the picture....

There was always pressure on the Berkeley city authorities from their own city council members. That was the topic of a lot of conversation among us, and a lot of restraints that people felt....We had to work around those to try to accomodate all those different things....The planning group could see it from a technical standpoint, all the different resources. It could be orchestrated there, but how it was received on the other side took different ears.

Ellingwood continues with a description of the specialized training institute for community relations established in San Luis Obispo, for which army experts were recruited, and discusses some of the questions involved in gathering and disseminating information among law enforcement agencies. On these and other projects, he worked closely with Meese, who continued to take an active role in law enforcement matters when he went on to be Governor Reagan's executive secretary.

By the time the project caught up with Ellingwood for the follow-up interview, in May 1983, he was chairman of the Merit Systems Protection Board in Washington, D.C. Youngish, blond, of medium build, he spoke softly and carefully, taking time to explore an idea even though people waited to see him. Describing himself as a very activist religious person, he was then deeply involved in preparations for the National Day of Prayer on May 5, of which he was co-chairman. He reviewed the transcript of both interviews promptly, returning them with only minor revisions, and has been patient about the time elapsed before sending him a copy of the completed memoir.

Gabrielle Morris
Interviewer-Editor

4 April 1985
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BIOGRAPHICAL INFORMATION

(Please print or write clearly)

Your full name Joseph Francis Gunterman
Date of birth May 21, 1913 Place of birth Calverton, Calif.
Father's full name William Frederick Guntermann
Birthplace Elberfeld (Wuppertal), Germany
Occupation Banker b. 3/3/85
Mother's full name Charlotte Lillian (Marrien) Guntermann
Birthplace Davis, Illinois 3/14/85
Occupation Housewife
Where did you grow up? Southern California (3 yrs. in Germany)
Present community Sacramento, California
Education B.A., Reed College + graduate work

Occupation(s) Teacher, warehouseman, carpenter
newspaperman, lobbyist

Special interests or activities Reading (literature, geology,
architecture), gardening, walking,
hiking

I PERSONAL BACKGROUND

[Interview 1: March 24, 1981]##

California Youth and Education

Morris: Let me ask you just a couple of brief questions to locate yourself. Are you a Californian born and raised?

Ellingwood: No, I was actually born in Colorado, but a couple months after I was born my family moved to California. I've been in California since then, except for the military and schooling.

Morris: Did you do your law school training here in California?

Ellingwood: I did my law school. I did undergraduate at Yale. I grew up in Monterey Bay.

Morris: And then you went into law practice here in California?

Ellingwood: Yes. I started immediately with the district attorney's office in Alameda County.

Morris: I see. How did you happen to decide on Alameda County?

Ellingwood: Well, we were living in Alameda County. My wife was teaching there while I was going to law school. I was looking at various jobs, and I wanted to get some government experience for trial purposes. so the DA's office was one office that I had interviewed. Of course, I knew some people that were there, like Ed Meese, who was already there. So I think that was a good reason to go there.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 43.

Morris: Had you known him in law school?

Ellingwood: I've known Ed since 1948. We were in high school activities together, although I was in Salinas High School and he was in Oakland. The Junior Statesman Foundation had an activity for extracurricular activities from high school in government. He and I ended up at the summer school together during our junior year, so from our junior year in '48 then we had a lot of relationship. We went to Yale together; we were in Yale together. He went through a year of law school. I was drafted right out of college. So I went through various things and went into OCS, and so we were together--he as a second lieutenant and myself as an OCS person at Fort Sill, Oklahoma.

Then after the military we were both living in Alameda County. He finished off his law school. He went to one year of law school and then two years in the service and then back two years to law school at Boalt. So we had a lot of relationship as friends, and then there was that period of time after law school that we were together in the DA's office. In fact, at one time we had desks side by side in the same room, a two-man room.

Morris: That's a long association; then.

Ellingwood: Yes, very long.

Morris: And shared an interest both in public service and in the specifics of law enforcement?

Ellingwood: Yes. We both taught. We both were much involved in police work. We were both directors on the Oakland Junior Chamber [of Commerce], both recipients of their Man of the Year Award, and in a lot of things we're very, very similar.

[The following question was sent to Mr. Ellingwood with the transcript of the interview; his reply follows]

Morris: What about Ed Meese was especially noticeable in law school and the army? Any incidents that were important in your friendship?

Ellingwood: Ed always displayed competence in things he attempted--sports, debate, et cetera. He was comfortable with himself. He never bragged on himself; he just performed. He never gave the impression that he was trying to be a star. He seemed to be interested in the same substantive issues I was. My friendship with Ed seemed to flow naturally; I think that's how most people related to him--and still do.

[Transcript resumes]

State Bar Lobbyist

Morris: There's a mention in relation to you that you were active in the State Bar Association also. Is that--?

Ellingwood: Well, I actually worked for the State Bar. I not only was active as a member in committees and that sort of thing, but I was their lobbyist for two years.

Morris: So that you left the district attorney's office--

Ellingwood: In 1966 on November the first, I left the DA's office and I went to work for the State Bar.

Then the election was the next week. I actually was one who encouraged Ed to try for the job up here as the legal affairs secretary; then it was called extradition and clemency secretary, I think.

Morris: Yes.

Ellingwood: So I did some things to help put that together and help him, and I moved up here to be the representative of the State Bar; that was when the legislature went full time for the first time.

Morris: Right.

Ellingwood: It was at the beginning of '67. So the State Bar and others were looking for full-time people. I moved up in December of 1966 and for two years then was the advocate for the Bar and had a lot of relationship with Ed because everything that the Bar did ran through Ed. He was the advisor for the governor's office of anything legislative that was dealing with the Bar.

When he moved up to be executive secretary, why, it was a natural thing, because of my relationship with the governor and with Ed over that period of time, for me to take that position.

Morris: What kinds of things was the State Bar interested in at that point?

Ellingwood: Well, the State Bar has had one of the largest legislative programs of any particular group, not only watching bills but some, say, eighty affirmative programs. They're interested in simple things like maintaining the codes to be sure the right words are in the various sections of the codes. They're interested in substantive things. No-fault divorce, for example, was one of the big issues that was going. They were interested in much in the criminal law and various reforms, specifically the judgment of acquittal, which

Ellingwood: is a tremendously controversial item but was one that was being pushed by the Bar. They were interested in the merit plan, and had been for a long time, on judicial selection.

So the Bar is broken down into many, many committees--administration of justice, bankruptcy--no, bankruptcy is mostly a federal issue. But if you're talking about domestic law, domestic relations law, or criminal law, or tort law, tort condemnation, you know, there are dozens of committees. So each of those committees comes up with legislative programs. So each year before the state legislature, why, there are quite a number of proposals for legislative action.

Morris: I can believe that. So you had to stay on top of those?

Ellingwood: Well, my position was to be their voice before the legislature on all those issues.

Morris: Were you the only lobbyist at that point for the State Bar?

Ellingwood: No. I had a part-time assistant, Bob Schleh, who was until recently the president of the Sacramento Bar and has now just been appointed last month to be a court commissioner here in Sacramento. Then later on I was able to hire a full-time assistant, Harold Bradford, who then became the lobbyist for the Bar when I left and is now working for the California Medical Association. Then we had another lawyer part time--we had two-and-a-half lawyers that were working for the Bar.

Morris: So, to that extent, as the Bar representative, with a long acquaintance with Ed Meese, you would have been feeding right into the governor's office on all those concerns.

Ellingwood: All the time. Every week. Every week we had--I probably didn't miss a week, in the entire two years, of not seeing Ed, because it was necessary, yes, to walk those through.

Morris: Both to develop the governor's position on legislation and then also--?

Ellingwood: Right, right.

Morris: That's interesting. Would that have enabled you to work as liaison between the governor's office and some of the legislative committees on some of the bills?

Ellingwood: Whenever the governor agreed with a State Bar proposal, it certainly helped in my being able to voice that opinion back to the legislative committee. As the lobbyist for the Bar, you're not speaking for the governor, obviously; but whoever would be an official endorser--

Ellingwood: for example, on the merit plan I was one of the principal people. We had the governor's office, the Bar, and the Judicial Council, three groups working to support the merit plan. We had all three in agreement, so when you spoke to a legislator or a committee you could say, "The governor, the Judicial Council, and the State Bar--" In that sense you represented the governor's position, but it would have not been appropriate, and I did not go from committee to committee or legislator to legislator saying, "This is the governor's position alone."

Morris: I was thinking of it more on subjects [on which] there may have been some disagreement, that somebody who has been talking to both the governor's office and the legislative committees can maybe serve as a middleman to help negotiate some of these differences.

Ellingwood: Well, I think it would be very important, so that nobody misunderstands, in the oral history, my position--certainly, I think, when you're talking about legislation it's always compromise, and in that sense you are helping negotiate solutions. But I think that either from the lobbyist's own integrity or the integrity of the State Bar or the governor's office, you weren't speaking on somebody's behalf for whom you did not work. Okay?

Morris: Right, right.

Ellingwood: So if I represented the State Bar, and the governor disagreed with the State Bar on a proposal--say, other than the merit plan; on a different proposal--there wouldn't be negotiation on my part on the governor's behalf in front of the legislators.

Morris: Well, you'd negotiate with the governor's office at that point, wouldn't you?

Ellingwood: Certainly, I'd be negotiating with the governor's office, yes.

Morris: [inaudible phrase]

Ellingwood: That's why I had to spend a lot of time every week in the governor's office, not just with Ed but with a lot of the other people, to try to get them to agree with the positions that I would have as the State Bar lobbyist.

Morris: Yes, and involving some give and take on the State Bar's positions then.

Ellingwood: Oh, absolutely. Oh, sure. Yes. True.

Law Enforcement Association Legislative Committees

[The following question was sent to Mr. Ellingwood on the interview transcript; his reply follows.]

Morris: Do you recall when you first met Mr. Reagan? How much personal contact did you have with him while you represented the Bar Association?

Ellingwood: I don't recall my first meeting with Mr. Reagan; I assume it was during the campaign. Before going to work for him, I never met with him one-on-one. Our meetings were mostly social and due to my position with the State Bar and with Ed Meese. Regarding criminal justice issues, I don't remember specific comments on those issues which were different from his public speeches. During the campaign and his first two years in office, he had fairly well spelled out his concerns.

[Transcript resumes]

Morris: If you had already a good working relationship with the governor's office, did you have to go through an additional evaluation procedure in order to be appointed to the governor's office?

Ellingwood: No, both the Governor and Ed Meese knew me. At that time what they told me is they were looking for somebody who had substantive experience in the criminal law but also had legislative experience, because they wanted to develop legislative proposals in that field during the next two years of the administration. I had six years in the DA's office and had taught and had been also the lobbyist for the police and the sheriffs and the DAs while I was a deputy DA.

Morris: Just as a volunteer member of the sheriffs' and police associations?

Ellingwood: Let me explain that in just a minute. But it was a natural kind of a thing because of that relationship to say, "Would you take the job?" So I'm sure all those relationships helped and the background, you know, helped too.

Earl Warren, when he was district attorney and wanting to run for a statewide office, looked for a way to become better known, and so he became the chairman of the legislative committees of the different law enforcement associations, to wit, the district attorneys and the sheriffs and the peace officers. He was the chairman of all of the legislative committees of those associations. [It was] as such that he appointed a deputy DA at Alameda County expense to spend whatever time was necessary on legislative matters on behalf of those associations. Of course, there wasn't that much

Ellingwood: when the legislature met only every other year for six months. When I came into the office Ed Meese already had that position.

Morris: So that job stayed on the organizational roster after Warren left?

Ellingwood: After Warren left, it did. J. Frank Coakley was then the DA. Ed had that job through '60--well, I came in in '60, and he had it when I was there, so '60, '61, '62. Then in '62 he'd had enough of that; he wanted to spend more time back in Alameda County. It almost required you to spend--he'd come up on Monday, for example, and go back on Thursday night or Friday. So you're away from your family a whole week during the legislative session for almost six months, unless your family could move here. Well, we didn't have any children, so that I could move my family up here during the legislative session. So we could do that. So I would almost come up six months at a time and then go back, for the entire period, through 1966. Because I had done that, the State Bar could say, "You have experience." They looked at all the different people that were available and that's why they chose me, because of that.

So we spoke as the legislative representative for the legislative committees of the district attorneys', the peace officers', and the sheriffs' associations. So there were those additional criminal law contacts and liaison with those organizations, which the governor wanted to assist.

Morris: To develop, yes.

Ellingwood: And knowing both names and issues, that made it, I'm sure, desirable on their part to ask me to be the legal person.

Morris: Yes. So in that respect the Alameda County's district attorney's office is in a fairly unique position.

Ellingwood: It was. It no longer is because the board of supervisors said that was probably no longer a desirable use of Alameda County money, that the associations ought to pay for that themselves.

Morris: This is since you've--

Ellingwood: I'm not sure when they made that decision to cut off the funds. They still have a lobbyist, but the associations pick up the cost.

Morris: And the person works for the associations rather than the Alameda County DA's office?

Ellingwood: And the person is not a deputy DA, yes.

- Morris: Right, right. I knew of Warren's interest.* I didn't realize that he'd developed such a structure.
- Ellingwood: Yes. And he used it very much when he was governor, both--well, as attorney general. He used it as attorney general very much. He met with the legislative committees quite often, and as governor he met with the legislative committees of these associations.
- Morris: I was struck by that, reviewing some of the things that Governor Reagan was interested in in terms of developing the capabilities in law enforcement, and strengthening the judiciary, and the mutual aid that's also something he was concerned with.
- Ellingwood: Right.
- Morris: Those are all ideas that I've come across before in the Warren administration, and I wondered if there was a continuity there.
- Ellingwood: Oh, there was a continuity. In fact, the mutual aid concept was very much fleshed out under Ronald Reagan but also was being used under Governor [Edmund G. "Pat"] Brown. Governor Brown used those same committees. He would come. We would hold a meeting at the El Mirador right across the street from the capitol. We called them law and legislative committees of those associations. He would walk across the street and either have lunch or have a meeting, share the meeting with them or whatever, while he was governor.

*See "Conversations with Earl Warren on California Government," Regional Oral History Office, Berkeley, 1981.

II THE GOVERNOR'S LEGAL AFFAIRS SECRETARY

Intrastaff Communication

- Morris: So when you moved into the governor's office [January 23, 1969], you really didn't need any orientation; you were already very familiar with your responsibilities.
- Ellingwood: Quite familiar, yes.
- Morris: Was there still the extradition and clemency function attached to--?
- Ellingwood: Yes, there was and still is. By that time the title had been changed to legal affairs secretary rather than extradition and clemency secretary.
- Morris: Right. So your responsibilities were much broader than just extradition and clemency?
- Ellingwood: Actually, I would assume that clemency took only a couple percent of your time, so the total of that probably didn't take 10 percent. Most of the time was spent on other issues.
- Morris: I used the words "in-service training" there [on the interview outline] because I was not aware that you had such tailor-made experiences [chuckles] for being legal affairs [secretary]. But I've also come across a number of things like management bulletins in the [Reagan] papers at Hoover [Institution] and other kinds of what look like training documents for staff, and I wondered if this was something that was a part of being in the governor's office.
- Ellingwood: Actually, Ed Meese developed most of that material, as I recall, after he moved to executive secretary, and I guess that was when he changed the job description to legal affairs assistant. But

Ellingwood: there was no orientation for me, nor did I find anything in the files. In fact, I prepared this [indicates folder], which is an orientation folder, for the Brown administration, as all of us did. We prepared these documents and this is the document on the legal affairs unit. This was all basically my work product; there was nothing else for me to really go on.

Morris: For yourself coming in?

Ellingwood: Yes.

Morris: You were there for--

Ellingwood: Six years.

Morris: Six years. Within the office, for all of you in all your different responsibilities, was there some kind of an ongoing training function?

Ellingwood: Well, not training in the sense of your taking a look at it--IBM doing regular training seminars--but we had regular meetings. The staff met regularly, evening at five o'clock or during the day or breakfast meetings in addition to the cabinet meetings, in which issues and procedures and things like that were covered; as well as there were written documents that were shipped around on a need basis. We had regular monthly meetings of directors of the departments along with senior staff and cabinet, at which time there might be memos or other documents that were passed out for training purposes.

I don't know that you could really say that there was a literal training process by which everybody in the office knew that these kind of things were happening. I don't know that.

Morris: Well, this is what I was wondering. You know, it looks like there's sort of a quantum jump in the numbers of responsibilities of the governor's office and certainly of state government in the years that you were there. Just the matter of keeping all those people informed of what was going on, and whether there was some kind of an effort at unanimity of response or--?

Ellingwood: There were constant efforts at unanimity, constant efforts to do that. Because you live together and you're working, you know--they're long hours and they're pressured hours in a position like that, and you're spending a lot of time together, there's a lot of just word of mouth as well as the written documents. I think more training came from word of mouth, whether it was a cabinet meeting, a staff meeting, or one on one. Then they would say, "Hey, we ought to put this in writing for everybody," so then documents would be developed and would be distributed on a broader basis to directors of departments and so on; whatever.

Ellingwood: I know in my unit, for example, after a meeting like that then I would come back and meet with my staff. I had two lawyers and four secretaries. So then we would do that.

Morris: So your unit functioned just in the legal affairs area.

Ellingwood: Yes.

Morris: Okay. And then you would report directly to Ed Meese?

Ellingwood: Yes.

Morris: Were there other people on the staff that you worked particularly closely with because of overlap of some kind?

Ellingwood: Well, I think you end up (when you're talking about staff) working very closely with everybody--the legislative unit, for example. You had to work very closely with them in order to get the proposals through, and we were doing a lot of legislation. You had to work very closely with the community relations aspect, [with] Bob Keyes, who was head of community relations. Minority issues were developing and there was a lot of effort to work in community relations. Actually, to begin with, the community relations team responded through me to Ed Meese, and then we separated that out. Well, it's kind of a different function, so it really ought to be reporting independently.

Then, of course, the educational unit with Alex Sherriffs--we worked very closely. He was right across the hall from me. The very first week that I was there People's Park erupted. Then we had Isla Vista after that. We were working on just a host of projects, including things like the guidelines under [Max] Rafferty for teaching morality; those all were a part of that beginning process. So it was quite broad. So we worked very closely with the legislative unit. We worked also very closely with the press unit, just because of the things like Isla Vista and those things that were happening.

Then I worked very closely with Ned Hutchinson on appointments. I basically was responsible for initiating names for appointments in the criminal justice area, and then I was a part of the team that worked on judicial appointments. The judicial appointments was basically Ned, who had the direct responsibility, and Ed and myself. I was involved a lot because as the State Bar representative I had sat in on literally hundreds of State Bar evaluations of judges and I knew the lawyers and judges up and down the state from my State Bar contacts.

Morris: The evaluation of judges in terms of their ongoing work on the bench?

Ellingwood: No, in terms of their being nominated for a judgeship. And in the Council on Criminal Justice I chaired the judicial task force of the Council on Criminal Justice for five or six years, so I knew the names and it would be easy to call a particular person and say, "Well, what do you think of So-and-So?"

Working with Ronald Reagan: Paperwork and Judicial Appointments

Morris: Before we get into that, let me ask you a little bit about your contacts with Governor Reagan himself, how many of these things he was involved in or how often he would want your advice.

Ellingwood: On what topic? On the things that I dealt with? The legal affairs unit, for example?

Morris: Yes.

Ellingwood: Well, it was a little bit different, the legal affairs unit, because he had to sign the documents themselves with regard to extradition or clemency, and you're dealing with a lot of them, you know. You're talking about a lot of paper. Any question, why, you know, I'd have to be face-to-face to respond to that; so I saw him quite often. On criminal justice policy, not as often, because there's lots of research, the drafting and other kind of things that happen before you actually have a decision to make. And you're in cabinet meetings with him and you're in social meetings with him on other things, so that there's more of a chance to gain an awareness of where the real heart-cry is, what he really feels strongly about.

On judicial appointments, I sat with him and I sat with--it would be Ned and Ed and myself who would present to the governor names, the nominees for the positions. I didn't sit in on all of those. There were more and more that I sat in on as the end of the term came up. I probably was in on all the appellate and I wouldn't have any idea how many of the trial court judges, but the three of us would sit and talk to the governor about those.

Morris: The three of you would give him a list of names?

Ellingwood: Ned had a list with a rating. Then we had the Bar's position. We had the five-man local committee's position--each one broken down; not just the committee, but each one broken down, the businessman--

Morris: Five-man local committees were local Bar committees?

Ellingwood: Well, no.

Morris: Local governor's committees?

Ellingwood: They were local governor's committees. Then we would in addition to that have the local Bar, so that there might be as many as, say, seven or more different blocs, people who had rated an individual. The governor would have the sheet in front of him, and then we could discuss what was in that.

Morris: Would this be like once a month or twice a year that you would have a--?

Ellingwood: Oh, no, the judicial things were happening. I mean, there was a constant kind of a turnover. He appointed [pauses]--well, in here [indicating document] it talks about 620 at the time of the--

Morris: As you're winding up the administration.

Ellingwood: Yes. So, you know, you're going to be doing that on a regular monthly basis over the period of years.

Morris: It would be like a regular monthly basis?

Ellingwood: It would probably be once a month on judicial nominations anyway.

Morris: Was your effort to fill those spots quickly, make appointments quickly?

Ellingwood: Yes, it's always important to do it as fast as you can because there's backload and we're concerned about the backlog in the court. One of the projects that I was very deeply involved with was reducing backlog, and you can't reduce backlog if you have a judicial position unfilled.

Morris: You comment on that in the wrap-up staff meeting in December of 1974.

III CRIMINAL JUSTICE ISSUES

Individual Responsibility and the Exclusionary Rule

Morris: Maybe we could move on to some of those things. Let me go back to these questions that I sent you and take them in relation to the roundtable discussion in 1974. You described the governor's position on criminal justice as "aimed at developing individual and corporate responsibility, more of a prosecutor than a regent," and I wonder if you could explain that. It's a tantalizing kind of an idea.

Ellingwood: Well, there's a book out that develops this. It's a blue ribbon report on criminal justice, dealing basically with public safety.* The chairman of the committee, of the task force, was Ed Osborne, who's a judge in Ventura County. We called it the blue book for short. It's a blue book of this size [gestures with letterhead].

One particular section of that report deals with the importance of the development of individual responsibility, responsibility for one's individual action or responsibility of a business for its corporate action. So many times when you're talking about the criminal justice process, people try to move to the root of the problem, which they see as social, so that you have hunger or poverty of some kind or racial discrimination or educational disadvantage or whatever as being the root cause of crime. It was the feeling of the people that were surrounding the governor that the root cause of crime was a lack of individual responsibility, trying to escape the consequences of your own act, laying it on something else. So there was some time that was spent on that.

*"Controlling Crime in California," Governor's Select Committee on Law Enforcement Problems, submitted to the California legislature August, 1973.

Ellingwood: As we looked at the problems we kept trying to come back here. Let me give you an example. One of the big programs of the late '50s and very much in the '60s and on into the '70s was the idea in criminal law of the exclusionary rule. It was very big under Earl Warren. The exclusionary rule says if the police do something wrong the evidence is excluded from testimony. There is a lot of conversation about that. The people who are working on the defense side are saying if the people lose respect for the system because an officer made an illegal search, then you're going to cause in the long run more crime because the system is not respected. A second argument is that it's not just for a person to be penalized for something he did--in a priority system of judgment--it's not just for him to receive punishment for something he did [that] on a scale of one to a hundred is like a .11 crime, and the crime or the social thing that the policeman did is a .5. He [the policeman] broke into the person's home, and therefore while he saw all the heroin on the table being cut, and the other person is obviously wrong because there's a law against possession of heroin, because the policeman broke the law in the way he gained entry, you can't prosecute the person for possessing heroin.

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Ellingwood: The position we developed is that if a police officer does something wrong, that ought to be handled individually against the policeman, that the crime still should be punished. If you don't do that, you allow the person to escape the consequences of his bad act. In the criminal world, the exclusionary rule is very well known, and so you're only enhancing a criminal's career, you see, under the circumstances, by continuing to apply an exclusionary rule. If you want to get the policeman, then you can either penalize the policeman directly with a criminal offense [or] with a monetary judgment. If you want the city police department to handle it, then you can either charge them financially or through some other kind of administrative regulation or supervisorial activity, but you can force the city police department to take responsibility for the policeman's action. But you've got to deal with them separately. That way, each person--the policeman has a responsibility for his actions, and the criminal has the responsibility for his actions. [doorbell rings; interruption]

My luncheon appointment is here, so I'd like to take another ten minutes or so, and then we maybe can talk about it another time.

Morris: Fine.

Ellingwood: The issue, though, that we've just reached is probably one of the most important issues and, I think, will be continuing as an important issue under the current administration [President Reagan].

We talk about the whole revitalization of the inner city; "reindustrialization" is the current word. You're talking about a new look at some of the welfare programs. You're taking a look at some of the corporate responsibilities. There's going to be, I think, a continued development of these issues. Some of them have not been articulated very well, and we haven't had a chance to really do that here, although I think if you were to read--we started the efforts with regard to either modifying or eliminating the exclusionary rule. If you were to read--I could show you documents here which I've just packed, which are now being written by the best of scholars, judges, judicial administrators, law professors from the best law schools, people like Kaplan, for example, from Stanford, who's considered a very liberal person, who are all writing articles against the exclusionary rule. And the Supreme Court--

Morris: That's for the position that you were developing while you were in the governor's office?

Ellingwood: For our position, yes. Right. I don't know of many articles being written in support of the exclusionary rule. Chief Justice [Warren] Burger--and there are probably four on the United States Supreme Court who are currently in favor of the abolition of the exclusionary rule. There is some conversation in all those circles. The issue is getting back to one of the individual responsibility. I think that if we had a chance to really refine that in an academically satisfying way, I think a lot of the civil disturbances or the things that gave rise to the civil disturbances on the campus and elsewhere could have all been handled a lot differently, ameliorated at least in the vibrancy of that action.

I think if we take a look at what's happening sociologically across the United States now and even--I do a lot of world travel. If you travel, you see there is quite a strong move toward what I would fashion as traditional morals, or "traditional values" is a better word, traditional values. I just came back from Singapore. I talked to one of the judges there, met with the same thing. And I think that there's a lot of room there for shaping policy which is--[Mr. Ellingwood's voice becomes inaudible as he goes to answer doorbell.]

Isolation of Judges

Morris: Can we talk briefly about the courts? And then I'll let you go on to your lunch appointment.

Ellingwood: All right, sure.

Morris: You mentioned that in some cases the courts felt threatened by some of the things that the Council on Criminal Justice was trying to do--

Ellingwood: Yes.

Morris: --and some of the things that the governor's office was trying to do.

Ellingwood: I think if you read the remarks both by Ed and by myself in the document I mentioned, you will see that the same comment is made by both of us.

Morris: Yes.

Ellingwood: I think the background of that is that the judiciary feels so very strongly that they are an independent branch of government that should not be impregnated by influence from other branches of government, a constant desire to be isolated; they have to be in that chamber and be pure in thought process, et cetera.

Morris: Is that realistic in a modern world set up for interrelation?

Ellingwood: Well, I don't think so. The principal value I see of programs like LEAA [Law Enforcement Assistance Administration] and the CCCJ [California Council of Criminal Justice] and those kind of programs is it forced at least momentarily judges to talk with other people. A judge would not have a social meeting, wouldn't have dinner with a policeman, for example, or the district attorney, or the public defender, or whatever, because they thought that somebody might see them and think that the person was talking about one of their cases, and [that they might] be challenged for cause, for prejudice, or whatever.

Morris: Well, financially, they had been told that they shouldn't make any financial contributions to--

Ellingwood: Yes, there's all that kind of stuff.

Morris: All that kind of stuff.

Ellingwood: There's all the difficulty with judges. One of the things that I did, really, with all the appellate judges--I would visit them; that is, the ones that we appointed, the governor appointed. I would visit them from time to time and I'd say, "You know, you have to be the one to build roads in to you from the same community that you served before you became a judge. If you were part of Rotary, you ought to stay a part of Rotary. You need to have those roads in. You were appointed because you had a good perspective; you were involved in the community; people were touching you."

The longer you're a judge, especially an appellate judge, the more you retreat farther and farther back into that isolated position in chambers, so the only people that talk to you are the other appellate judges.

Morris: Yes. And your law clerks and your staff.

Ellingwood: Or your law clerks and the secretaries, and all they do--it's an incestuous process, and all you do is feed on your own idea.

Because you're the presiding judge of the court of appeals, your opinion has more weight than it really should have. Who's going to argue? Is the court clerk going to argue with you? Is your secretary going to argue with you? No. Is your wife going to tell you your legal opinion is wrong? You know, who's going to do that? You need people out there who can bounce off of you what the public is thinking about what you're doing.

Morris: In specific cases before you as well as the general attitudes?

Ellingwood: Well, in general. The thing is, obviously it would be wrong for an attorney on a case to talk to him about the case.

Morris: So your argument is that the currents in society, whatever they may be, do have a bearing on the cases that come before the court?

Ellingwood: Absolutely, absolutely, and should.

Morris: Well, how does that contrast with the strict construction idea?

Ellingwood: It has no inconsistency with the strict construction idea. When you're talking about a judge, you're talking about staying within the traditional function of the judge. The opposite of strict construction is a judicial activist who is out to make new law. We were not in favor of judges making new law. New law ought to be made by the legislature, and the judges ought to apply the law that's before them and not be reaching out for new theories. That's not their position in life.

Ellingwood: Law is supposed to be made by the legislative branch, but in our lifetime the elite of the judges have become that by becoming judicial activists. We really felt that that was a prostitution of the system, not the right function of the system. So you're looking at people who are content, not just content, but desirous of fulfilling the role of the judge. In fulfilling the role of the judge, though, that doesn't mean that you're isolated; it doesn't mean you're a robot.

When you're talking about appellate law, you're not talking about people coming in to contest or argue or to have input outside the judicial process on a particular case in front of you, on the factual issue. But an appellate judge is no smarter than a trial court judge, and an appellate judge is no smarter than the lawyer that's in front of him. He's just got a job to perform, he has a function to perform, and he needs to have the input of a lot of people into how those decisions are made.

So the LEAA and the CCCJ and these funding programs forced them to have conversation with other people. I've been to lots of judicial seminars, and it's amazing as you sit around there. It's like watching a flower open up in the middle of sunlight, to have a conversation with a policeman here and a judge here and have that conversation back and forth across the table. It's like the judge had never heard this before in his life. And the judge having to sustain his position, voting on an issue, with the public defender or the DA or a citizen involved or a press person that's a part of the committee or a teacher, a professor, or whatever. To watch that all come together is real life. It's not real life to sit back and be an isolated person back in chambers, not just with the judiciary but with public defenders and policemen, with probation officers and policemen, with probation officers and other people, you see. These programs really opened up this whole world.

Usually criminal justice is considered black and white, regardless of which side you're on, you know. The public defender doesn't believe the DA, and the DA doesn't believe the public defender, and the policeman doesn't [believe] the probation officer. So it's all black and white, and it's in your own mind black and white; there are not a lot of gray areas. This opened up--and to find out it's basically all gray, you know, and you're trying to work and you're trying to find out what's the best way to do it.

Court Continuances; Capital Punishment

Ellingwood: And here we talk about continuances. Now, how many times are you in court and the judge himself would ask before a plea was made, "Counsel, have you been paid?" See? It has nothing to do with the merits of the case, but it does provide in the judge's mind and in the attorney's mind the justification for a continuance; it does justify the continuance.

Well?

Morris: I gather there were some cases in particular where judicial decisions caused crises for the administration. I wondered if you could recall what some of those were.

Ellingwood: Well, we need time to talk about each one, because when you take them out of context I think it gives you a warped picture. Obviously, you have one right now. You still have one. You know, the whole death penalty issue has not been resolved.

Morris: Right, right.

Ellingwood: And it's strictly a judicial implementation problem and has been since before Governor [Edmund G. "Pat"] Brown left office. The court, the judges, somehow have this tremendous feeling that capital punishment is inherently wrong. While the people have said they want it, every poll shows they want it, and every election has shown they want it, the courts are not allowing capital punishment to go forward.

Morris: Well, I think that's a good example, since we aren't going to have time to talk about a number of them, where there were strong coalitions of organizations that felt that the death penalty was no longer effective and then others that felt very strongly that it was still needed.

Ellingwood: Yes.

Morris: I wondered how the governor would deal with those differing strong expressions.

Ellingwood: The governor himself felt very strongly that capital punishment was desirable.

Morris: Did he arrange to see the people on both sides of the question?

Ellingwood: Oh, sure, although I think on capital punishment that was one issue that was very difficult to have argued in front of him against it, because he just felt very strongly that that was--

Ellingwood: and he had campaigned that way, you know. That was a part of his life-style; he just believed it. So the paperwork was there. I gave him all kinds of information on the death penalty pro and con, statistics and surveys and polls and all that kind of stuff, and it was all presented to him, but I think on that issue there wasn't much changing of his opinion.

Morris: Yes. Were there other criminal justice issues on which his opinion did change?

Ellingwood: Oh, yes, certainly. Well, not on trends, I think, but on specifics.

Morris: Can you recall some?

Ellingwood: Well, the judgment of acquittal, for example, which was a bill that I talked about earlier, being sponsored by the State Bar, was something that the district attorneys did not want and lobbied him against signing, but he signed it.

Morris: He signed it even though the district attorneys opposed it?

Ellingwood: Yes, yes. District attorneys, peace officers, and sheriffs--all three organizations asked him to veto the bill, and he signed it. That says that after all the evidence is in on the people's side, if the judge feels that there's not sufficient evidence for a--if the case has not been made by the people, before it goes to the defendant's side, before the defendant puts on any information, any evidence, if the judge feels that there's insufficient evidence, the case has not been made, the defense counsel can move for a judgment of acquittal, and the judge can grant it. That was a major change in the law, and a very controversial bill, and yet he saw the justice of that and signed it.

Reagan's Priorities and Legislative Relations

Morris: On the overall span of the number of things that the governor had to deal with, how from your experience with him would you rate this area of judicial appointment and criminal justice procedures in relation to the--?

Ellingwood: [thoughtfully] Oh, I don't know; because I dealt with it. I don't know that I can give you a very objective feeling. I think if you could say judicial appointments--I think he thought it was,

- Ellingwood: you know, very, very high on the list. He was very much concerned about judicial appointments. Criminal justice, I think, was important only really as it related to the other things that were happening in society. I don't think you could place it over welfare or over the OSHA [Occupational Safety and Health Administration] problems or over the CRLA [California Rural Legal Assistance] problems or, you know, name a host of other problems. I don't know that it was anything more important than any of those.
- Morris: Did it kind of underlay a number of related issues?
- Ellingwood: Well, I think it was integrated with them, yes. It was just one of those, whereas I think there are certain issues that were head and shoulders above everything else, and I think judicial appointments was one that was very high in his mind's eye and one that there was a lot of conversation on.
- Morris: Why in particular were judicial appointments--?
- Ellingwood: Well, I think he thought that the judges had not been doing their job. He campaigned for the merit plan on that basis before he was elected and then after he was elected, legislatively and otherwise.
- Morris: I mentioned, in the outline I sent you, Donald Grunsky.
- Ellingwood: Yes.
- Morris: He seems to have introduced a bill a year for five or six years.
- Ellingwood: Yes.
- Morris: Was there some problem with his bills that they didn't get passed?
- Ellingwood: Oh, it's just that the legislature didn't like the merit plan. The legislature liked to be able to pound the desk for a governor and say, "Hey, I want this guy, my law partner or this particular person, appointed a judge." The legislature wants to have influence in judicial selection, always has had that desire.
- Morris: Does that necessarily go against a merit selection?
- Ellingwood: Well, sure. If the merit plan is in, the legislature has nothing to do with the appointment. It goes to a nominating commission.
- Morris: Yes, but if, you know, legislators ask--

Ellingwood: They can't--no. The legislator can come down and say, "I'll trade you my vote on the budget for a judge." You can't do that to a nominating commission.

Morris: True. But I presume that a legislator could make suggestions [to a merit commission] as to who should be appointed.

Ellingwood: Oh, certainly. Certainly, he can. But he has to operate from leverage to have the same influence he wants.

Morris: If he names a good person--

Ellingwood: Well, you're looking at it on the merits, and the legislators don't look at it on the merits.

Morris: Oh, oh.

Ellingwood: A legislator says, "I want this guy appointed. Why shouldn't I have him? I've been your spokesman on the floor for fifteen major bills, so my opinion on this particular guy as a judge ought to outweigh all those other reasons. Why shouldn't he be appointed?" It wouldn't make any difference as to the ratings. The ratings are all tenuous anyway. How do you say--? There's nothing that says in the calibrated eyeball that a person is exceptionally well qualified as compared ~~to~~ qualified. What's the borderline? That's people's opinions. But a legislator can come down and say, "I want that person!" or "I myself want to be a judge."

Morris: I can see where you'd have a problem if it were legislators saying, "I want to be--" But if I were a legislator, I would assume that I would be pretty sure that I didn't suggest somebody for appointment who wasn't going to be a competent judge.

Ellingwood: I think that you would then be not a typical legislator.

Morris: I see. Well, I'm looking at this with a certain amount of hero worship.

Ellingwood: Well, most people look at judicial appointments as being on the merits, you know, as being really top of the class.

Morris: Yes. Well, this is the public opinion side of the judges seeing themselves as top of the class.

Ellingwood: Yes. And it's like--it's not really that way.

Morris: Were there legislators who were helpful and shared your ideas as to--?

Ellingwood: Sure. Certainly. It got out of the one house.

Morris: Which legislators particularly did you--?

Ellingwood: Senator Grunsky had always been very helpful in that regard. I don't know. George Moscone was the one that was most obviously against it and even lobbied on the assembly side for its defeat. I'd have to look back to the records. The Senate Judiciary Committee was very helpful. It got out of Senate Judiciary, it got out of Senate Finance, and it got across the floor. [Robert] Lagomarsino was very, very helpful. He was one of the most helpful people. The best spokesmen, I think, were probably Grunsky and [Robert] Lagomarsino. He's in the Congress. Grunsky retired and he's living in--

Morris: Watsonville area. Yes. I have thought that he might be a useful person to talk to about it.*

Ellingwood: Oh, he would be, yes. Grunsky's very good. If you're talking about the kind of legislator you're talking about, Grunsky was it. Grunsky was in the legislature for thirty years. I'm from Watsonville, and I've known him for--well, I came here in 1960--personal friends. I've never seen him do anything on a bill that I thought was other than on the merits. He's really, for me, an ideal legislator.

Morris: Did you work closely with him in this process of--?

Ellingwood: Yes, yes.

Lagomarsino might be someone, while you're in Washington, to talk to about this process of judicial appointment.

Morris: Yes, he'd be very good.

Let me wind up with one sort of general question. There are frequent comments that Governor Reagan's relations with the legislature were not as cordial as they might have been. Was there any change in that in the years that you were there or any effort to try and--?

Ellingwood: I think that the Democratic leadership certainly was not in sympathy with Governor Reagan. Of course, there was a time when Bob Monagan was the speaker of the assembly. I think that Governor Reagan's relationships with the legislature got better, you know, every year that we were there, regardless of who was in charge. He spent more time with them. I mean, legislators are obviously very important people, and they're elected by a large constituency, and by and large they're in good faith, and they're trying to accomplish their goals.

*Mr. Grunsky subsequently declined to be interviewed for the project.

Ellingwood: The legislature has been more liberal in California than certainly Governor Reagan was, and therefore there was obvious and automatic conflict, but I think he was able to work with them well. I think that largely was due to not only his own attempts, but the legislative unit worked very hard to try to have understandings. He would invite them over to the house for dinner quite often so that you'd have smaller groups. They'd come over and talk about moving pictures or legislation, whatever.

Morris: Would he invite some of you from the staff to those sessions too?

Ellingwood: Yes.

Morris: A few of you at a time?

Ellingwood: Yes.

Morris: On a related issue? Was the guest list people who presumably were working in the same area, legislative and staff?

Ellingwood: Well, I think you always have somebody that's related to the issue, and then you have a sprinkling of other people.

Morris: That's good party planning anyhow.

Ellingwood: [chuckles] Yes.

Morris: Thank you. This has been very helpful.

Ellingwood: You're welcome.

IV IMPLEMENTING THE GOVERNOR'S CONCERNS

[Interview 2: May 3, 1983]##

Program and Budget Review

Morris: In view of your time commitments, maybe I could start with the general question I sent you, at the end of the brief outline to put things in perspective. In terms of your overall responsibilities with Governor Reagan's office as legal affairs officer, how much of your time was spent on specific legal concerns such as the campus disturbances and the death penalty and prison administration, in relation to the various planning efforts on law enforcement?

Ellingwood: Well, we spent a lot of time in the area of criminal justice because that was a major concern to the governor. And because my background lent itself particularly to that. We were very involved in the death penalty, the initiative and all of the things that were concerned about that. I spent, as an individual, a lot of time with the corrections people, the parole boards; Ray Procunier and Allen Breed, who were the adult and youth corrections people. I visited the prisons, a variety of them.

I obviously did all the clemency. We had a rule within the office that nobody--no other governor's employee talked with anybody in corrections about any kind of clemency other than myself or my assistants. [buzzer interruption] What did I say?

Morris: You were the only person who talked to corrections people.

Ellingwood: We handled the clemency.

One of the major things we were concerned about was looking at length of time served, percentages of people going for institutional care, and therefore we spent, I spent, a lot of time with the Bureau of Criminal Statistics--whatever the name of it was now--anyhow the bureau of statistics in the Department of Justice.

Ellingwood: We had sometimes weekly, sometimes biweekly, meetings with a group of individuals that talked about potential legislation in this area.

Morris: Who would that group be?

Ellingwood: Well, we had people that--Bob Walters, for example, was from health and human services, and basically he was an aide to--I guess he was an assistant to Spencer Williams, and I think then on to [Lucian] Vandegrift [when he succeeded Williams as Secretary of the Health and Welfare Agency.] Walters was looking at it from their administration side and so it would include him, it would include, obviously Procunier and Breed, it would include--

Morris: How about people in the legislature, like George Deukmejian?

Ellingwood: We didn't--they weren't really included in those kind of meetings. We did include, once in a while, people from the outside, such as people who represented the law enforcement, district attorneys, and people like that. The attorney general.

So there was a lot of time with regard to the planning process, in that. Plus, of course, we were, my responsibilities were serving on the Council of Criminal Justice, and being familiar with the Crime Technological Research Foundation and the other groups like this. Being liaison and active in the Bar.

It seems to me there were, you know, trends--the whole--

Morris: In the field of corrections?

Ellingwood: No, within criminal justice.

Morris: Okay.

Ellingwood: Then you had corrections, youth and adults, being a major focus. You had law enforcement being a major focus and then court reform being a major focus. That was true whether you were in the Council on Criminal Justice or in the governor's office or just in the field, and so we did a lot of work there.

I was the chairman of the judicial committee of the Council on Criminal Justice and we spent a lot of time working in that particular arena. For planning purposes, for example, I was on the chief justice's select committee on trial court reform. And also we did a study on appellate work. So we were under the chief justice. I was meeting with--up and down the state--with people who were appellate justices or other judges, trying to come up with ideas in that area. I don't really recall that I could say we spent a percentage of time as a regular office day--

Morris: Yes, right--

Ellingwood: I'd have to really rethink that process. But I could say that there was a lot of, I think planning, in that area.

Morris: So that your responsibilities were primarily for planning and moving new ideas into the thinking of various branches of the government?

Ellingwood: Yes. In addition to that I had responsibilities for overview of the Department of Justice budget, the judicial budget. I did not have the health and human services area of adult and youth corrections, but I did have overview of attorney general and I had OES [Office of Emergency Services], I had CCCJ. I had some limited oversight into Highway Patrol, as far as budget is concerned, especially as it dealt with emergency services. So, that's an additional factor in the planning process in looking at substantive--

Morris: In the budgeting, once you've gotten your concepts and your legislative ideas, then you have to budget.

Ellingwood: And also looking at what the others are trying to do. What I said did not confine Highway Patrol as to what they were going to do, or the Department of Justice. The attorney general did his own budget, but we were required to look at those items, line items, and make a recommendation on those line items to the cabinet.

Morris: The material that I've read in terms of the Council on Criminal Justice and the Office of Emergency Services looks as if there was considerable budget increase planned in order to carry out some of the functions. How did Governor Reagan respond to that in view of his concern with cutting the overall costs of government?

Ellingwood: Well, he looked at it in the same way he looked at anything else. He knew that crime was a big issue when he came in during the middle of a lot of college campus disturbances, and other kind of things like that. One of his major themes all the way through was the necessity to reduce crime and to protect the public. I know, just in the area of the attorney general's budget for criminal lawyers, we made major increases in those budgets. That required a lot of conversation with other cabinet members because you were always looking at how much the pie could be cut up for any particular department. So when the attorney general asked for a lot more lawyers and other people, it took some conversation and salesmanship, but the governor was quite receptive to that.

Morris: In other words, say for example, Business and Transportation [Agency] or Resources people would question the increase in expenditures?

Ellingwood: Oh surely, yes.

Morris: Meaning that their sections would have to presumably take the cut in order to pay for these increases?

Ellingwood: Or at least programs they wanted did not get funded because something in the attorney general's office got funded.

Morris: Did this make a difference whether it was Evelle Younger as attorney general or Tom Lynch who was attorney general?

Ellingwood: It really did not make any difference as to who was attorney general. I think, obviously, Evelle Younger as a Republican seemed to participate or have his staff participate, at least in my experience, more than did Tom Lynch, in the thinking process.

Evelle Younger also was the chairman of the Council on Criminal Justice.

Morris: And Tom Lynch had been chairman earlier, hadn't he?

Ellingwood: Tom was not as active a person as was Evelle Younger.

Morris: Do you mean as a personality?

Ellingwood: As the chairman, yes, as a personality.

Morris: Or as a political person?

Ellingwood: I think as a personality. My remembrance of him was not that he was that active.

Strengthening Mutual Aid; People's Park and Other Civil Disturbances

Morris: Okay, maybe we could then move on to the Office of Emergency Services. Is that the embodiment of the mutual aid concept?

Ellingwood: Yes. That was already in place. What we had recommended--what we had talked about and then was recommended in the select committee --you have this report here.* This is the select committee.

Morris: Yes.

*Ibid, p. 14.

Ellingwood: The report was started in '72 and the report was issued in '73. They recommended, and we encouraged, but it did not pass, a separate cabinet position that would put all the emergency service-type units under that. Under Governor Brown, Junior, there was a new cabinet position created, but it only dealt with corrections. It did not cover all the other items. If you take another look at that book we recommended basically all the items all the different departments would come under that. Which meant the removal, say for example, of the Fire Marshal's office from the Department of Agriculture over into and under this new department.

The Office of Emergency Services covers a lot of things that are not criminal justice. You're covering floods and fires and all kind of other things--

Morris: Natural disasters.

Ellingwood: It does include the mutual aid concept, and the mutual aid concept was the thing that really needed to be strengthened a lot because when you begin to take a look then at the ending of the college disturbances and the other kind of problems that were there, you were covering a variety of problems.

Morris: How did you see that complex of problems?

Ellingwood: Well, if you took, People's Park, for example, you had the immediate problem that the University [of California] was under a different jurisdiction, the board of regents.* You had law enforcement units in that area that were in different jurisdictions.

Morris: The sheriff's office and the city police?

Ellingwood: The sheriff obviously was the coordinator for the area, but because of the location of the events that were happening around there -- (while the university is in Berkeley, Oakland lies very close, Emeryville lies very close, et cetera)--you have all those police departments around there, and there needed to be a really strengthening of that. The sheriff needed to know and be backed up in the kinds of decisions for immediate law enforcement assistance. Everybody was scrambling for resources and so with the major Nimitz freeway, you know, running through there, what portions of that, of the disturbance, or potential disturbance planning, whatever, could be handled by the Highway Patrol.

*May 1969 disturbance in Berkeley, on city and university land.

Morris: Was this a new function for the Highway Patrol? You know, the layman thinks of them as the people who keep you from driving too fast.

Ellingwood: I think there was great difficulty in philosophizing exactly where the Highway Patrol should fit in, and that's why it was very important for them to be a constant part of all the planning process. They were one of the people who were invited in.

Morris: To kind of educate them to this concept?

Ellingwood: To educate them, to get them to be comfortable, and to have others comfortable with them.

Morris: They didn't see themselves having a larger--[responsibility]?

Ellingwood: Well, regular law enforcement did not see them as regular peace officers. They thought of them more like the citizens thought of them--as traffic officers, not as law enforcement officers.

Everybody had to see themselves in a new light, in a cooperative [relationship]. The best way to do that was to give limited functions, and gradually then, see how one could participate as a team. So Highway Patrol could take highway duties and then perimeter duties and could supply helicopters, could supply other kinds of things, communications. They could be early on [the scene of a disturbance] because of--

Morris: They were more flexible?

Ellingwood: Flexibility, the travel, that sort of thing. Communications. And then they could pull back. They could be early on and then they could pull back. You needed to be able to orchestrate. During that time, I was told, it was at least much better orchestrated than before.

At the same time you had some bikers that were causing problems around through the hills.

Morris: The Hell's Angels-type organization?

Ellingwood: The Hell's Angels and others. So it wasn't just a matter of dealing with a campus disturbance, it was a matter of dealing with the utilization of resources up and down the state. Because of the jurisdiction that the regents had and it being their decision as to what to do with People's Park, they then had to request of the sheriff and others the mutual aid assistance. As that process began, there was certainly more than ever before a renewed working relationship between law enforcement authorities and campus authorities.

- Morris: How about city authorities? Was that part of the picture too?
- Ellingwood: Well, the city authorities were very important as a part of the picture because Berkeley was going through a lot of change at that time, philosophically, with regard to city management. The mayor, the chief of police and all that sort of thing. And there were some changes, quite a few changes going on there.
- Morris: In terms of trying to be accomodating to the new ideas, the political ideas?
- Ellingwood: Yes, which impacted how law enforcement was able to work, or not work.
- Morris: Are you suggesting that some of the state law enforcement units had difficulty working with the Berkeley city authorities?
- Ellingwood: There was always pressure on the Berkeley city authorities from their own city council, city council members. That was the topic of a lot of conversation among us, and a lot of restraints that people felt, a lot of pressures that were placed upon them. We had to work around those to try to accomodate all of those different things.
- Bringing in the military into that situation was for a lot of people very, very troublesome.
- Morris: In your planning group?
- Ellingwood: Well, not in the planning group, but in the implementation of that, because the community was the one that was having difficulty with it. The planning group could see it from a technical standpoint, you know, all the different resources. It could be orchestrated there, but how it was received on the other side took different ears.
- Morris: That's a good point. Was there a component in the Emergency Services planning of how you deal with the community opinion?
- Ellingwood: We talked about it a lot, and we tried to work with the city officials. I can't say that I recall that there was any specific one person or unit charged with community relations. But, you know, different units have community relations people and the police departments have community relations people.

One thing that was really, I think quite a major change as a consequence of all of this was a strengthening of the campus police themselves. Bill Beale became then the chief of all the campus police.

Morris: He'd been chief of police for the City of Berkeley, and then he went to the campus?

Ellingwood: To the campus, and then he became very much involved in the larger picture of all campus police activities.

Morris: System-wide?

Ellingwood: I think it was system-wide, but I'm not sure about that.

Morris: Oh, well, I'll explore that.

Ellingwood: Yes, you might want to do that. But at least it was a new working relationship and it was better than to have somebody--it was easier having somebody as an employee of the university system who was a trained, recognized, police administrator. He could, as their employee, have conversation with them in a different light.

The whole military, the use of the national guard, in a situation like that, required major kinds of planning, and major limitations. They were, you know, designed first of all, basically as a perimeter. You talk about a curfew, you talk about the kind of things that were happening around there. The idea was to have them basically as a perimeter force. I think the community saw them as a hostile, army kind of group.

Morris: Certainly something not of the experience of people living in a--

Ellingwood: Right. Then you use the police resources on the inside of that perimeter group. And only in the event of absolute necessity did the military forces get utilized. That was at least the plan.

Morris: Was this the first time that the California National Guard had been drawn into this kind of mutual aid?

Ellingwood: People's Park? No, they had been brought in before.

Morris: Were they encouraging this?

Ellingwood: Was the military encouraging it?

Morris: Yes, the planning that the governor's office was--?

Ellingwood: Well, I think all units saw the need for better planning. It was just then, of course, that the availability of federal funds was coming into play through LEAA [Law Enforcement Assistance Administration]. One of the very first things that happened in the Council of Criminal Justice under LEAA was to be sure that there were logistically, that there was more equipment available to all these different units.

Need for Improved Community Relations and Intelligence Systems

- Ellingwood: One thing that I did as soon as I was on board was, I went to what was a real community relations-type program in Georgia under the military and the person in charge--
- Morris: Run by the army?
- Ellingwood: Run by the army, yes. And the person in charge of that program was Colonel [Louis O.] Giuffrida.
- Morris: I see.
- Ellingwood: I saw the desirability of bringing that kind of a program into California, and so we then established the California Specialized Training Institute at San Luis Obispo and he headed that.
- Morris: As a detached service to California?
- Ellingwood: No, no, we hired him away from the military.
- Morris: I see. Where is he now?
- Ellingwood: He's now the head of FEMA [Federal Emergency Management Administration] here, in D.C. He is now the general, or he was the general before he left. CSTI became then probably the best single state source of community relations as we know it, developing a better understanding of the feelings of the public and the dissident groups and the teachings of different philosophies and implementation and getting law enforcement in there. He would be a great man to talk to put the thing in perspective.
- Morris: Ed Meese has suggested him. It's an intelligence process of finding out where people are. [laughs]
- Ellingwood: Yes.
- Morris: Quite an elaborate intelligence structure was also developed. From reading the [CCCJ] minutes it looks like a lot of attention was given to that.
- Ellingwood: There was a need for development of intelligence and more broadly-disseminated intelligence. Various units gave to the Department of Justice actual bodies to work at the Department of Justice.
- Morris: On loan from these departments?

Ellingwood: Yes. Still in their departments, but located in the Department of Justice. To assist in that and to develop across-the-board intelligence on different things.

Morris: The question that has been raised in terms of government services in general, on intelligence, is at what point is there a question of spying and interfering with people's lives. Was that question raised?

Ellingwood: That's a question that's always--whenever you're involved in intelligence that's a question that has to be addressed. Usually it comes down to a difference of opinion as to what is the proper role. I think you have to say it was a constant subject of conversation.

Morris: Was it enough of a concern that you would take it up with Ed Meese or Governor Reagan?

Ellingwood: Well, Ed Meese chaired the usual weekly kinds of meetings. If he wasn't there, I did. But he was still active all the way through the administration. He was listed as, and conducted the meetings as, chairman.

Morris: So as executive secretary he continued to stay on top of this particular area. But on the question of what are the proper role of and what are the limits of intelligence, what kinds of discussions did Governor Reagan sit in on or what kind of input did he have?

Ellingwood: Oh, I don't think he had much conversation in that area. That was mostly the conversation between all the department heads and donor staff. Of course, the Department of Justice had their experts, both within the law enforcement field and in the lawyer field. They were constantly having to talk about that as far as court actions were concerned. So the legal side of the attorney general's office was, you can't say primarily responsible for keeping that conversation up, but they were active participants in that conversation.

Morris: So that within the government itself it was a debate?

Ellingwood: Well, I can't say it was a debate; it was a discussion. Very rarely would you come down a situation where they said let's do this, let's not do that because it was an invasion of privacy.

That kind of issue might come up in an organized crime sense, where you're looking at people with patterns. If you take a look at Hell's Angels, for example, when they are going to one of the mountain towns, looking at their files, looking at the criminal justice files or having informants or something like this didn't, it was not seen as an invasion of any kind of privacy.

Ellingwood: The kind of privacy problem that you would have would be people that were looking at campus or downtown kinds of situations where you'd have informants or undercover people observing that. Well, that wasn't really done, see, by the state. That would have been done by local police groups. The information would have been given to the state, but the actual participation would not be by a state entity.

Morris: Some of the recommendations I read were that all information from all communities and all sources should feed into a statewide network. Which sounds like it potentially is involving an incredible amount of information about an incredible number of people.

Ellingwood: Well, that never really did happen. I don't think we're talking about the kinds of confidential information, undercover kinds of operations, going in. Even now, what happens as a practical matter is, if you have a main Joe Blow who you think is a Mafia or name any other kind of a person who may be a problem, the name goes into the computer with the police department involved; and if somebody wants information they don't get it from the state, they have to go to the police department. And then it's up to the police to say whether or not they have a legitimate need to know.

Evolving and Adding Policy Recommendations

Morris: Let's move over a little bit to the committees, planning committees and task forces. There seem to have been continual ones. The first one was in '69 and then, how had the work progressed and therefore how different were the recommendations by the '72-'73 Select Committee on Law Enforcement Problems?

Ellingwood: Well, these recommendations--there were some new, and some that had been discussed from the very front. From the very first time that Governor Reagan came into office, he talked against the exclusionary rule, he was for the abolition of the exclusionary rule. I don't recall whether he campaigned on that issue, but I know that from the very front of his office he favored abolition, because I was then the lobbyist for the State Bar. The exclusionary rule had been in effect by that time for ten years, more than ten years since 1955.

He also had been in favor of other things, although they might not have been expressed as well as they were in the select committee. For example, the integrity of the court process, [on which the committee recommended] the prosecution of perjury, which is not really done across the United States. But when you talk about other things; they recommended other things that were not really a product of our discussions over the years.

Ellingwood: So there was a continual evolution. And many of us, if you take a look at the flyleaf of this report, you'll find that the people who were on the advisory committee of this particular select committee were people that were involved in the earlier conversation.

Morris: The earlier committees, okay. But the California Council on Criminal Justice continued, regardless of the task force?

Ellingwood: Yes, oh yes. But, let me see, of course, Ed Meese had been there for two years before I got there, and as I recall Earl Brian had some relationship to the council, the attorney general did too.

Morris: They look like the cabinet officers, on this. [see next page]

Ellingwood: Some of them are cabinet officers. We have [Norman] Livermore, Frank Walton, James Stearns, those are the cabinet officers, and Earl Brian.

Morris: Was this a weighted kind of pull of other departments of government into--?

Ellingwood: Yes.

Morris: Concern with these issues? How about the various efforts on drug abuse? Was this something the governor had come into office with concern about, or was this something the staff brought to him?

Ellingwood: I think it was both. The governor's always said that the principal social problem of the State of California, now of the United States, is drugs. Even Nancy Reagan is saying so now. I don't think he knew the specifics.

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Ellingwood: Meese, I think, personally drafted the CRC program.* He was personally involved in all the methadone projects. He had been in support of strengthening penalties for misuse of drugs. He had been active in the drunk-driver implied consent in the laws which was a part of the select committee's program. Alameda County was one of the pioneers in the utilization of drug detection programs.

Morris: So, you're saying that a number of these legislative efforts preexisted; Governor Reagan found the work already had been sketched out for him by the district attorneys association.

Ellingwood: Well, at least there had been beginning proposals on all these ideas. I think that one of the principal new ideas, that really had not gotten any play before Reagan became governor, was the mandatory penalty side of it. It was just a major effort and increased effort in the area of mandatory penalties throughout

*California Rehabilitation Center.

From Controlling Crime in California, Report of the Governor's Select Committee on Law Enforcement Problems. Submitted to the California Legislature August 1973 with a speech by Governor Reagan.

GOVERNOR'S SELECT COMMITTEE ON LAW ENFORCEMENT PROBLEMS

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Raymond C. Brown

Edward L. Ehlers
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Edward Hinz, Jr.
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Director, Division of Law Enforce-
ment State Department of Justice

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Verne Orr
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Richard K. Turner
Assistant Legal Affairs Secretary
to the Governor

Lewis K. Uhler
Special Assistant to the Governor

Frank J. Walton
Secretary, Business and
Transportation Agency

See Appendix for Summary of Major Recommendations.

Ellingwood: the whole drug arena and not only that, but in the use of weapons; for having a weapon at the time of the commission of the felony.

That idea really became popularized under him and spread to many of the other states--mandatory penalties.

Morris: One more question on the drug abuse programs. There was an office of drug abuse, narcotics education and enforcement set up. It looked like that was about 1970 and that it was attached to the governor's office. There were three coordinators in three years. Was there some kind of problem--?

Ellingwood: Tell me who they were again.

Morris: A man named [Arthur] Suddjian was appointed in 1970, then a man named [William] Skelton was appointed in '71. Then in 1973, a Matthew O'Connor was appointed by Ed Reinecke. I wondered if the office got moved out of the governor's office?

Ellingwood: I'm really having difficulty remembering all of that.

Morris: Then it didn't impinge on your primary--

Ellingwood: No, it was a part of what we were supposed to be doing, but I'm having trouble really focusing in on it right now. I would need some time to look at that.

Morris: Okay, well, I'll leave the question on the transcript and if you remember it--you know, whenever there's this kind of a turnover the question arises of were there shake-down problems and if so, what kind and that sort of thing.

There was also a moral guidelines task force.

Ellingwood: That was not under the governor. That was under [Max] Rafferty [Superintendent of Public Instruction]. The first one was under Rafferty. I sat on that. That report was not received that well. When [Wilson] Riles came in [as Superintendent of Public Instruction] he set up an additional task force. I sat on the moral guidelines, not as a part of the governor's office. When I came into the governor's office, that responsibility under Riles was given to [pauses to remember name] I guess it was actually given to Alex Sherriffs, who then delegated it to--Who's the gentleman who became the head of the Chamber of Commerce in Sacramento just recently--he was an assistant to Alex?

Morris: Oh, Kehoe?

Ellingwood: Yes, John Kehoe.

- Morris: I see. But did you have some personal interest that led you to sit on the task force for a while?
- Ellingwood: I don't know why they selected me. I was at that moment in time the lobbyist for the State Bar in California.
- Morris: I see. This was before you were in the governor's office?
- Ellingwood: This was before I was in the governor's office, yes. Rafferty had put together a larger group, I don't even know if I was on the front end of it, I may have been a later addition to it. In any event, it was a very intriguing assignment. It had nothing to do with the governor's office.
- Morris: My mind must have made that transfer because some of Governor Reagan's speeches have to do, I guess with moral--
- Ellingwood: He deals with that a lot. In fact in this ["Controlling Crime" report] one of the things that was discussed in here and was wanted in here and came in here, was the whole thing on individual responsibility. And even after the governor became president, things from this particular section on individual responsibility have been used by him here. It's his belief on that. I think it's stated quite well, and whole sentences, I know have been pulled directly from this and used in his conversation here.
- Morris: How had people come to--
- Ellingwood: In fact the whole arena of victims' rights, see, I think the concentration on victims, started because of the stress here on individual responsibility. Governor Reagan was the first governor to have a victims' week to be interested in the victim's rights. He was the first president to have a proclamation with regard to victims' week and to stress victims. This is the origin [taps report]. Vern Grose, who was a member of the task force of the select committee, was given the primary responsibility as I recall, for development of that arena. He teaches back here from time to time, and visits here quite often, but his residence is still in California, in the Los Angeles area. He'd be a good man to talk to.
- Morris: Yes. Is he in the justice department? Or is he a minister?
- Ellingwood: No, he never was in government, nor is he a minister. He is an engineer-type, he is a scientist, an engineering-type. He teaches systems management. He teaches it here, he taught all over the world, systems management. That was why he was brought in to this particular task force; he was serving [pauses to remember] I'm not quite sure, I think he served on the Crime Technological Research Foundation. In any event, his strength was seen in that

Ellingwood: and I used him in the judicial committee of the California Council on Criminal Justice. He was a member of that committee. He did a superb job in breaking it down, in breaking down the problem.

Morris: Of individual responsibility?

Ellingwood: No, no, no, no, no. Of court reform. Of the court issue, using systems management, which he had been a part of in the aerospace field.

Morris: What company is he associated with?

Ellingwood: We can get his resume and it will show which companies he worked for. He was on some of the early space shots.

Morris: Good, yes it is interesting to know who developed these ideas. The Crime Research Foundation seems to have run into considerable opposition in the legislature.

Ellingwood: It never really got off the ground. It was a great idea. But it never really proved to be very good. One of the reasons, I think, was in funding. It was trying to be a public corporation where private donations could come in. [interruption]

Morris: Is it time for your conference?

Ellingwood: Yes.

Activist Personal Religion

Morris: I'd like to wind up with one personal kind of question. We came across several clippings in the file about your youth work with church groups.* I wondered if your own religious involvement was related to your concerns about crime and society. Which came first, as it were?

Ellingwood: Well, I would say I'm a very activist religious person, and have been involved across the United States. I think it's kind of hard to pinpoint, you know, where one might really impact the other. Anybody's life is kind of a whole, I don't know that you can break it up into too many parts. I think that's the subject of a lot more discussion than you can have in a simple answer.

*See appendix.

Ellingwood: I think somebody might see it as inconsistent, for example, I'm very pro death penalty. Many people might see the religious side of it being very anti death penalty. I would assume that as an individual, my religious beliefs would impact my professional beliefs. But I don't know how that breaks down in saying I'm in favor of mandatory penalties for drug abuse.

Morris: Does that relate to individual responsibility?

Ellingwood: I think it does, in the total sense of individual responsibility.

Morris: And your personal religious beliefs are that it's a matter of individual, moral, behavior, rather than religion as a pleasant cushion to sort of ease one through life?

Ellingwood: At the same time I see, for example, church being a hospital for the sick, not as a haven for the saved to come together for mutual admiration, or worship or whatever else. I see a church as being a hospital, where all kinds of people, drug addicts, alcoholics, criminals, bad people and good people come together to try to see the mix of this whole process and assume that there is a God who wants man to work in a horizontal relationship with all those around about him. So there is a great deal of compassion. At the same time there is a strong belief in individual responsibility.

Morris: And that there is both a healing process and a learning process from being in contact with the drug addict and the corporations man?

Ellingwood: Yes. Yes. I worked, for example, I incorporated, I was the lawyer to incorporate, a half-way house for drug addicts.

Morris: In Sacramento?

Ellingwood: Well, actually it was in San Francisco. It's called "Teen Challenge." It's now throughout northern California, in fact it's all over the world, although I didn't have that portion of it. I had the northern California-Nevada side of it. We had houses in San Francisco, Sacramento, San Jose, Oakland. For a little while we had a project, I think it was Marin County. Having done that and worked in the center to see that particular side of an addict's personality, behavior, which [those experiences] I think are a very important part of where I was coming from. Although the person, if you wanted to talk about that, was Dick Turner, who was my assistant at that time.

Morris: In the governor's office?

Ellingwood: In the governor's office. He had more of the role with regard to drugs than I did. I gave him the drug arena.

Morris: And did he also carry on into being involved in half-way houses and other kinds of community things?

Ellingwood: Well, that's a story you might want to talk to him about. He really didn't know that much about the whole drug field and he began to examine alternatives and he ended up going around to various areas, including the Teen Challenge half-way centers, but you might want to talk to him about what his end result was.

Morris: Did he come to Washington with you?

Ellingwood: No, he's in private practice in Sacramento as an attorney.

Morris: Thank you. I appreciate your talking about your personal beliefs. I think they're important in terms of understanding how the governor's office functions and I think the idea that there are people who've been as involved in government as you are, for whom religion is important, is a good thing to document.

Ellingwood: Well, for your purposes, this week is the National Week of Prayer, May fifth is the national day of prayer, proclaimed by the president, and I am the national co-chairman of that event. That's happening this week. It's going to be at Constitution Hall. You need a ticket; it's an invitation-only event. The vice president will be there. For the first time in history we have Tip O'Neill and Howard Baker who are part of it.

Morris: Really?

Ellingwood: We have business and labor, the first time labor has ever been involved in it. The number two labor man, Tom Donahue, will be a part of it. The head of J.C. Penney's is a part also. So we have business and labor, both parties, the vice president will be speaking. We have volunteer organizations, represented by the head of the Red Cross, and we have the head of the military, the Chairman of Joint Chiefs, we have--it's ecumenical, we have Jewish and Protestant. So it's going to be really, a really neat program.

Transcriber: Marilyn White
Final Typist: Marie Herold

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APPENDIX

SUMMARY OF MAJOR RECOMMENDATIONS

*The Criminal Justice System—
Organization and Management*

- Create a Public Safety Agency that includes those functions in the executive department which are primarily concerned with law enforcement and public safety. It should include the following:
 - California Highway Patrol
 - Department of Corrections and associated parole functions
 - Department of Youth Authority and associated parole functions
 - Military Department
 - Department of Public Safety Services
 - Office of State Fire Marshal
 - Office of Criminal Justice Planning
 - California Crime and Technological Research Foundation
 - Commission on Peace Officers' Standards and Training
 - Office of Emergency Services.
- Change the name of the California Council on Criminal Justice to the Office of Criminal Justice Planning and place it within the Public Safety Agency.
- Assign to the California Crime and Technological Research Foundation the responsibility for coordinating research in the criminal justice field.
- Establish and require use of a uniform crime report and follow-up procedures that would follow the offender from arrest through corrections, for misdemeanors and felonies.
- Establish a model for automated crime information, and adopt a goal of an integrated automated system of crime data reporting by 1983.

To Assist Police in Protecting the Public

- Develop a basic mutual aid plan and make it available to local enforcement through the Office of Emergency Services.
- Train and maintain list of qualified personnel to act as field commanders and to provide specialized services when needed in a major emergency.
- Develop trained specialists in disarming explosives, sniper suppression, use of non-lethal riot control gas, and other specialized functions. The Office of Emergency Services should coordinate these manpower resources which can be available to local government in case of riot or emergency.
- Provide state reimbursement for mutual aid expenses in case of major emergencies. Initial budget: \$200,000.

Local Law Enforcement Training and Communications

- Ask the Task Force on Local Government to explore the possibility of consolidating small law enforcement agencies into units of sufficient size to provide most effective law enforcement.
- Request the Commission on Peace Officers' Standards and Training to establish standards for training personnel for follow-up criminal investigations.
- Ask the President to request that the Federal Communications Commission establish a spectrum management center in the Los Angeles area to relieve law enforcement radio communication congestion in urban areas.

Private Police Regulation, Standards and Training

- Ask the Governor to appoint a committee to study and recommend steps to clarify and standardize local regulation of private police, including:
 1. Adopting selected uniform colors exclusively for private police;
 2. Provisions for training all armed private police in the use of firearms;
 3. Clearance of armed security officers;
 4. Recommendations concerning the state's future role in regulating private police in California.

Citizen Participation in Crime Control

- Provide state assistance to local government in establishing the universal Emergency Telephone Number 911 to assure the speediest possible response to a citizen's call for help.
- Encourage newspapers and other news media to establish Secret Witness programs to assure maximum citizen assistance in solving crimes.
- Propose legislation requiring manufacturers to put serial numbers on television sets, stereos and similar items which are frequently taken in burglaries.
- Encourage statewide civic and public service groups to sponsor and conduct a program to have all citizens engrave their driver's license number on valuable items kept in the home.

Mandatory Prison Sentence for Criminals Wielding Guns and Pushing Narcotics

To protect the public against armed criminals and narcotics pushers:

- Declare a clear state policy that criminals who wield firearms in committing a crime *shall go to prison*. Develop effective methods to *enforce* this policy in all courts throughout the judicial system.
- Amend the Penal Code to *prohibit* probation for anyone unlawfully armed with a firearm at the time of arrest or during the commission of a specified crime.
- Make a prison sentence for convicted narcotics pushers the *general rule*, rather than the exception. Legislation may be necessary to eliminate excessive probation for convicted narcotics sellers.
- Convictions for possession of heroin for sale should result in a *mandatory* prison sentence, with strict safeguards against granting probation except cases involving the most compelling and extenuating circumstances.
- Make a prison sentence the *general rule*, rather than the exception, for conviction of selling or possession of marijuana for sale.
- Develop means of evaluating drug rehabilitation programs and withhold funds from programs which do not meet standards of effectiveness.
- Give each individual convicted of using or being under the influence of heroin a choice between:
 1. Commitment to the California Rehabilitation Center; or
 2. A sentence of one year in the County jail; or
 3. Five years probation, with the first 90 days in the County Jail. Require frequent testing for drug use as a condition of probation, with jail sentences for violations.
- Assure adequate controls on methadone to prevent its diversion into illegal channels and continue research and strict evaluation of methadone treatment programs.
- Adopt a law making it a misdemeanor to drive a vehicle on a highway when a person has 0.10% or more alcohol content in his blood, *regardless* of the individual's ability to perform brief balance and coordination tests.

Truth in the Court Room: Trial Delay, Court Congestion and Jury Reforms—Balancing the Scales of Justice

- Abolish the "exclusionary rule" and make the public entity liable for ordinary damages plus attorney's fees for unlawful searches and seizures by law enforcement officers, as a better means of redress for victims of unlawful searches.

- Develop strict standards for negotiated pleas (plea bargaining), with a review process to assure consistency and compliance.
- Adopt a statute to regulate reciprocal disclosure before trial by both the prosecution and *defense*. (Based on standards of the National Advisory Commission on Criminal Justice Standards and Goals and the American Bar Association's Minimum Standards for Criminal Justice project.)
- Where sufficient evidence is available, *prosecute perjury*, even if the defendant has already been sentenced in the case involving the perjured testimony.

Assuring a Speedy Trial

- Adopt regulations and procedures to assure that a criminal case either goes to trial within 60 days or less or is disposed of by a defendant's plea.
- Adopt stricter procedures to eliminate unnecessary and excessive continuances of criminal cases.
- Give priority to all cases involving opiates or dangerous drugs, including use of temporarily assigned judges if necessary to assure a speedy trial.
- Reclassify most minor traffic violations as infractions and establish informal summary procedures for handling infractions.

Improving the Jury System

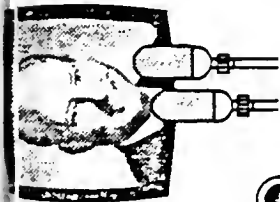
- Authorize six-member juries for misdemeanors and for felonies not punishable by life imprisonment or death.
- Make a corresponding reduction in the number of peremptory (juror) challenges for both defense and prosecution.
- Authorize a verdict by a five-sixths majority of the jury, except in capital cases. (Recommended by the Select Committee on Trial Court Delay.)
- Limit exemptions and excuses for jury service to cases of actual and serious hardship.
- Adopt uniform fees for jurors statewide; increase the daily fee to a more reasonable amount (\$15 to \$20 per day).
- Provide other conveniences for jurors to make such service less of a burden, including adequate parking and jury assembly rooms.

Amend the Welfare and Institutions Code to:

- Give the district attorney concurrent authority to file juvenile court petitions.
- *Require* the district attorney to participate in hearings when either the juvenile or a parent is represented by counsel.
- *Clarify* the district attorney's role as representing the interest of society (the state) in all juvenile court matters.
- *Remove* the general rule of secrecy in juvenile court proceedings.

Sentencing and Corrections

- Re-emphasize individual responsibility for crime.
- Re-emphasize that the protection of the public is a priority in parole and probation policy.
- Re-orient the probation system and increase prison commitments (through more uniform sentencing and specific laws requiring mandatory prison sentences).
- Repeal probation subsidy, a program which was laudable in its goals, but which has failed to result in more effective rehabilitation.
- Develop standards for selection, education and training of all state and local correctional personnel, possibly including creation of a group similar to the Commission on Peace Officer Standards and Training to establish standards.
- Expand correctional industries and other work programs and make work mandatory in prison except when security requirements make it impossible.
- Expand volunteer rehabilitation programs such as Alcoholics Anonymous and other programs which emphasize rehabilitation as a primary responsibility of the individual prisoner.
- Automate the Department of Corrections record-keeping system to provide timely accurate information for program evaluation, classification of and assignment of inmates, monitoring and administrative control.



THE VOICE OF BETHEL



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Icee To Sponsor Morgan on Radio KRAK



One of Bethel Temple's lay leaders, Herb Ellingwood, (far right) was present at a recent meeting with California's Governor Ronald Reagan, along with our National Assemblies of God director of the Royal Rangers, Commander Johnnie Barnes (pictured 2nd from the left). Johnnie Barnes' son was also present as the Governor presented our National Royal Rangers leader with a flag of California. According to Herb Ellingwood, who is active at Bethel Temple and as a District leader of Royal Rangers, Governor Reagan was tremendously impressed that in less than six years, almost 100,000 boys have become involved in this great program. Editor's note: Herb Ellingwood has also written a guest editorial for the Voice of Bethel this month which appears on page 3.

As of July 21, Pastor Morgan began two Sunday programs on Sacramento's largest and most powerful radio station. Broadcasting from facilities at the Country Club Center in Sacramento, KRAK radio is the West's most powerful independent radio station, reaching easily into the states of Oregon and Nevada while serving northern and central California like a blanket. KRAK a clear channel station, has been heard in far distant places from its point of origin, including Pastor Morgan's recent city of residence, Seattle, Wash. Making it all possible, is a local business firm whose owners and managers are faithful and diligent members of the Bethel Temple family. The firm known in these parts as ICEE of Sacramento, actually serves a much larger area with activities as far away as the Islands of Hawaii. "ICEE," as Pastor Morgan would say, "is a drink that's not really a drink at all; you don't drink it, you slurp it!" It is basically ice, but when combined with the icee process, it becomes the most refreshing drink ever... a... refreshment available to young and old alike in the warm climate of Sacramento." Along with the 7:30 to 8 a.m. time which ICEE sponsors, the management of KRAK has made available to Pastor Morgan, the time slot of 10:30 to 11 p.m. Sundays. The program already in progress, is also available for sponsorship, and when adequate sponsorship is obtained, there is talk of more time being made available to Pastor Morgan. KRAK has a strict country music format and boasts top ratings not only in Sacramento, Modesto, and Stockton, but also in the San Francisco Bay area. During these half hour programs, Pastor Morgan plays popular Gospel music, announces the current activities of Bethel Temple and comments about the love of Jesus Christ and the excitement of a personal-relationship with God's son. Pastor Henson continues to fill the air every Sunday morning from KCVR with "The Voice of Bethel," one of the most loved and appreciated radio programs in northern California. Pastor Eastman adds a light and lively 30 minutes to the schedule each Saturday, known as "Tunes for Teens".

Missionettes Will Be Headed

Christianity and Social Action

BY HERBERT E. ELLINGWOOD

Every Christian should be involved in social action. Social action can be defined for our purposes as "aggressive involvement in community activities which are intended to benefit society."

The words "social action" usually raise a red flag in fundamentalist circles. Is this the same as "social gospel" which is so severely disliked by us? My answer is a ringing — "NO!"

The social gospel is the continual preaching from the pulpit of a God-ordained responsibility to be involved in particular political or social reform movements; the primary function of the church (salvation) is either forgotten or not stressed.

I believe Billy Graham was right when he said recently, "I am convinced that if the church went back to its main task of preaching the Gospel and getting people converted to Christ, it would have far more impact on the social structure of the nation than it can have through any other thing it could possibly do."

I believe also that this is the same conclusion we will reach as a result of the unprecedented Council on Evangelism being held at St. Louis, Missouri, this summer. However, social action need not be inconsistent with evangelism. Two things are necessary — motive and method.

What is the proper motive for Christian involvement in social action? To get rid of slums? To have more beautiful streets? To provide

better schools? To elect Republicans? No! — of course not! To effectuate in another manner Acts: 8, "Ye shall be witnesses unto me . . . unto the uttermost part of the earth."

The proper motive is easily seen. It's the method that gives people trouble. "Civil disobedience" is a household phrase now (even though the two words are inconsistent with each other). It may come as a shock to some that several of our ministers and laymen wanted to be involved in the Poor People's March on Washington, D.C. this summer. At least one of our laymen and one former minister were involved. The march resulted in some violence and some disobedience of laws.

Romans 13:1-2 is clear: "Let every soul be subject unto the higher powers. For there is no power but of God; the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God; and they that resist shall receive to themselves dam-

nation." That portion of the Bible is supported by numerous other scriptures. (See Titus 3:1, 1 Peter 2:13-15; 1 Timothy 1:9, the name a few.)

As far as I am concerned, the popular method of civil disobedience is unChristian. The traditional methods of social action will accomplish our goals and not taint our motive. What kind of social action do I advocate? None in particular because our motive is applicable to many. For my personal involvement, I favor youth activities. How do you add to the wonderful program we already have for our youth? Well, the experts in causes of delinquency pinpoint lack of employment as a primary source of trouble; therefore, every businessman should make or help find a job for every youth. Is education important? Then we should see to it through scholarships or loans that none of our youth is denied an education.



HERBERT E. ELLINGWOOD

The credentials of our guest editorialists, Herbert Ellingwood, include: Legislative Representative for the State Bar of California (30,000 attorneys); scholar in California, Yale (B. A.) and Stanford (L. L. B.); active District functions (various committees, M. F. Executive Council, District lay leader for Royal Rangers, 120 member, Teen Challenge) and Bethany Bible College (Chairman — Development Cabinet, Vice-Chairman — College Council); Trustee, Monte Vista Christian High School; Vice-President, Junior Statesmen of America; member of various professional and community organizations (Christian Legal Society, American Bar Association, American Judicature Society, Phi Alpha Delta Legal Fraternity, Sacramento County Bar Association, Commonwealth Club, Sutter Club); selected as one of the outstanding young men of America by the Junior Chamber of Commerce; Outstanding Young Man of Oakland — 1967; recipient of many awards, citations and resolutions for professional and community achievements.



Co-chairmen:
Mrs. Bill Bright
Chairman,
National Prayer Committee

Hon. Herbert E. Ellingwood
Chairman, U.S. Merit
Systems Protection Board

MAY 5, 1983 NATIONAL DAY OF PRAYER

National Day of Prayer Committee

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FOR IMMEDIATE RELEASE

PLANS ANNOUNCED FOR NATIONAL DAY OF PRAYER

WASHINGTON, D.C., March 1--Plans are under way for nationwide activities in connection with the National Day of Prayer on May 5, it was announced today.

President Reagan formally proclaimed that day, the first Thursday of May, as the thirty-first consecutive National Day of Prayer since Congress acted by joint resolution in 1952 to instruct the nation's Chief Executive to set aside one day each year for such a national observance.

Specific activities in connection with the National Day of Prayer are, however, arranged and coordinated by private groups, churches, and individuals independently of Congress or the President.

This year, a national committee composed mainly of representatives of major denominational and non-denominational prayer ministries is calling for a variety of nationwide activities including:

- coordinated proclamations at the state and local levels by governors and mayors as counterparts to the Presidential proclamation of the National Day of Prayer;

--the ringing of church bells at noon on May 5, followed by five minutes of united prayer ("Take five at 12") by all Americans wherever they may be;

--a variety of state-level and local-level prayer-related activities appropriate to each state and local situation, coordinated by committees at those levels;

--a gathering in Constitution Hall on the evening of May 5 for a time of prayer for the nation.

"Prayer is a way in which all Americans can truly make a significant contribution to our nation at a moment in history when we desperately need God's intervention," said Vonette Bright, co-chairman with Herbert E. Ellingwood of the National Day of Prayer Committee. Ellingwood is chairman of the U.S. Merit Systems Protection Board.

"We are praying that millions of Americans will begin now to help mobilize the entire country for a day of concentrated thanksgiving and intercession to God on May 5," Mrs. Bright added.

Assistance in the planning process has come from the members of the National Prayer Committee, whose members include: Mrs. Bright, chairman, and founder, Great Commission Prayer Crusade; David Bryant, Inter-Varsity Christian Fellowship; Mrs. Harold Christenson, United Prayer Ministries; Mr. and Mrs. Jim Dawson, Youth With a Mission; the Rev. Dick Eastman, Change the World Ministries;

Also Dr. Norval Hadley, World Vision International; Dr. Ben Jennings, Great Commission Prayer Crusade; Mr. Wyatt Lipscomb, Support for Action; the Rev. Moultrie McIntosh, Anglican Prayer Fellowship; Commissioner John Needham, The Salvation Army; and the Rev. Glenn Sheppard, Home Mission Board, Southern Baptist Convention.

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Government History Documentation Project
Ronald Reagan Gubernatorial Era

Joseph F. Gunterman

SACRAMENTO ADVOCATE FOR THE FRIENDS COMMITTEE
ON LEGISLATION OF CALIFORNIA

An Interview Conducted by
Sarah Sharp
in 1983

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INTERVIEW HISTORY

In "Sacramento Advocate for the Friends Committee on Legislation of California," Joseph Gunterman tells the story of his own work for the oldest public interest lobby in California, work which began in 1961 and then continued until his retirement in 1975. Considered by some "the lobby of last resort,"* the Friends Committee on Legislation of California (FCL) undertook many unpopular and difficult causes during the governorship of Ronald Reagan, and the FCL continues in those causes today. Gunterman discusses some of these--the efforts to abolish the death penalty, to establish fair housing firmly in the law, to create decent working conditions for the state's farm laborers, to fund a free lunch program for elementary school children from low income families, to broaden the rights of prison inmates, and even to convert the technology used in the manufacture of military weapons in California to nonmilitary purposes--as they took shape in the state in the 1960s and 1970s.

Gunterman analyzes his approach to legislative advocacy, the effort of trying to convince an assemblyman or senator to support a bill you think is important. For most of the issues which the FCL has supported, it has always been an uphill battle. As he recalls about his work in the movement to abolish the death penalty through legislation in Sacramento, "...even though we had anti-death penalty bills in every year, the push [by legislators] was not behind them. From the Caryl Chessman session on, it became less and less, and sometimes I would be over there in the hallways working on it, on a bill, and feeling terribly lonely...[but] every bill gives you an opportunity to argue the issue again. Every bill gives you an opportunity to change the atmosphere. Well, what you do is, you really create another dialogue, whereas if you don't have any legislation in, there's nothing to work from and nothing to talk about, no educational process basically."**

In addition to these notes on the FCL's specific efforts in Sacramento in this period, along with interviewee Jan Marinissen, Gunterman presents a history quite separate from the other recollections of interviewees in this volume who supported the goals of the Reagan governorship in law enforcement and corrections, and who helped to enforce them.

*Readers are directed to an article about the work of the FCL, "The State Lobby That's Powered Only by Principle," by Mildred Hamilton, San Francisco Examiner, 6 March 1983, a copy of which appears in the Appendix.

**Readers are especially directed to the complete text of Gunterman's letter to John Urey, 18 January 1968, which appears in the Appendix.

Joseph Gunterman is one half of a two-lobbyist family. His wife, Emma Hartog Gunterman, has been an advocate in Sacramento for increased services for the poor, the elderly, and the disabled residents of California for the past seventeen years. Readers interested in her career may see, "Emma Gunterman at 68, Will Her Work for the Poor Go On?" in California Journal for November 1984.

This single taping session occurred in September 1983 in Gunterman's home in Sacramento. After the interviewer-editor had rough edited this transcript for clarity, she sent it on to the interviewee for his review and approval. He added much new information at this point, as is indicated in the final manuscript. He also went through his own back files covering FCL activities and returned the transcript with much illustrative material. Copies of some of these personal letters, FCL reports, newsletters and notices, which cover the period 1967 through 1974 appear in the appendix.

Sarah Sharp
Interviewer-Editor

March 1985
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

I FAMILY HISTORY: FIRST CONTACTS WITH THE FRIENDS

[Date of Interview: September 9, 1983]##

Sharp: Your father [William Frederick Guntermann] was born in Germany, I see.

Guntermann: Yes.

Sharp: Then they came to California?

Guntermann: Yes. My father and his younger brother, Fred,* came. The year I don't know, but it was around the turn of the century. They came because their uncle had taken part in the Alaska Gold Rush, had been up in Alaska for a number of years, and then had come down to California looking around what to do next. Just at the time that the Imperial Valley was being opened up. He took out 160 acres outside of Calexico and wrote for his nephews to come and join him. So they came out at somewhere around twenty or twenty-one years old.

My father said when they got out of the train at Calexico, the only green they could see anywhere was sixty acres of alfalfa that their uncle had put in. [laughter]

Sharp: Well, from what I know of alfalfa, it's very nice and very green.

Guntermann: Yes, it's a wonderful thing to look at.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 43.

*Frederick Guntermann, b. 1/1/87, Elberfeld, Germany.

Sharp: So he got into banking?

Gunterman: Yes. He was trained as a pharmacist. When he got over to this country, he first got into wholesale groceries. I assume that that was where he was able to find a job. He was in Los Angeles, either Los Angeles or San Francisco, with a wholesale grocery firm. Then he either transferred or got a different job in the same line down in Mexico City. He was in Mexico City for a year or so, perhaps two years. His uncle up in Calexico wrote him that he had bought one of the local banks and wanted somebody to run it. [laughter]

Sharp: Just like that.

Gunterman: Just like that. My father went up to Calexico to run the little bank there. So he stayed in banking.

Sharp: He was already married at this point?

Gunterman: My parents met when my father was in the wholesale grocery business. My mother [Charlotte Lillian Mannion Guntermann] was working either for the same firm, or in the same line anyway. While he was in Mexico, she came down to Laredo, Texas, and he came up from Mexico City. They were married in Laredo, Texas.

So when my father went to the valley to work as a banker, he had his wife with him. They had a child for that matter; they had my oldest brother, William.*

Sharp: That sounds like, in a way, such a real classic turn-of-the-century California story, to see people coming to what was still quite a frontier environment and starting to make a living.

What I'd like to do is spend a few more minutes on this basic biographical information, and then get directly into some of your legislative advocacy experiences. Tell me a little bit more about your family, maybe something about your family life, and then we'll talk a little bit about some of your earlier work experiences.

Gunterman: First of all, my great-uncle had built a house, a very fine house, on his farm outside of Calexico. So when my father and his wife and child were coming up, my uncle needed to provide a place for them to live. (This is, of course, all hearsay.) When they had finished building the ditches for the irrigation system in the

*William Frederick Guntermann, b. 11/10/07 in Mexico City.

Gunterman: valley, they had a number of kind of barrack-type buildings standing around in various places where the workers had lived while they were doing it. They hitched up some horses to several of these and pulled them over to my uncle's place and nailed them together and created a house. [laughter] A one-story bungalow which is very typical of the West, with a sloping roof. I believe it was sloped in all directions--in other words, a hipped roof. And a porch around two sides of it. So that was where I was born, as the third child, in 1913.

My mother couldn't stand up to the heat very well, so there were occasional trips and stays up in Los Angeles or San Diego. Finally in 1917 or 1918 my mother and the children moved to San Diego. My father stayed in the valley, and he would come home on weekends. So we lived in San Diego for three and a half years, at 29th and Gunn Streets.

Then we moved back to the Imperial Valley. That must have been in '21. In '22 the three older boys went to Germany with our aunt, Cacilia. She had come over, had been visiting in the Imperial Valley. She took us back, and we spent three and a half years in Kassel, Germany, with our grandparents and these two maiden aunts.

We came back from Germany in '25. In '25 my father had left the bank in Calexico, and our family was leaving the valley. He got a job. He was manager, I think, of a bank in Santa Monica for a year. Then we moved up to Santa Barbara, where he was manager of a branch bank there, and he stayed in Santa Barbara for the rest of the time. My two younger brothers, George and Tony,* still live in Santa Barbara.

Sharp: So you have all brothers?

Gunterman: No, there's one sister, Tete.** She's the next younger to me. She lives in Kensington, Maryland. Her husband is a research biophysicist with the National Institutes of Health.

Sharp: I was trying to connect your interest in the FCL [Friends Committee on Legislation] with other parts of your life. I wondered if you'd had some religious influences as a child or a young person that--.

*George Walter G., b. 8/27/17 in San Diego; Karl Anthony, b. 7/19/19 in San Diego.

**Mary Cacelia (Wollman), b. 8/16/15 in San Diego.

Gunterman: Our family was Catholic. In this country the family was pretty casually Catholic. We went to church on Sunday, but you didn't pay too much attention to the church otherwise. In Germany the family was very devout, and Catholicism was very important to them. But I left all of that when I was a teenager.

My first contact with the [Religious Society of] Friends was when conscription was enacted. I was back east. I'd discussed my feelings about the draft and so forth with friends, and they suggested, why didn't I go down to Philadelphia to talk to the Quakers there. So that was my first contact with the Friends.

I spent three and a half years in the war in conscientious objector camps, entirely in Forest Service camps.

I had become kind of the liberal maverick of the family--or the radical maverick, whichever--when I was a teenager. I was the only member of the family who was a conscientious objector. I horrified my family by voting for Upton Sinclair in '34. I worked on the Upton Sinclair campaign.

Sharp: Out ringing doorbells or working in the precincts or--

Gunterman: I rang some doorbells, you know, distributed literature, and then I remember specifically, on election night I was a poll watcher. We went in to watch the polls to make sure that no funny business happened, which, I think, in looking back on it was kind of amusing. As it turned out, you know, it was just a typical election group. The officials were just a typical group, very earnest about their job and--

Sharp: From the neighborhood.

Gunterman: Yes, from the neighborhood. They'd never pull anything funny. But I had this strong sense of duty that I had to stick it out, because I was told to.

Sharp: Was it pretty boring, then?

Gunterman: It was, yes. It went on until three o'clock in the morning, or something like that.

Sharp: What were some of your work experiences after or before you were in the conscientious objector camp?

Gunterman: I was graduated in comparative literature from Reed College. Not knowing what I wanted to do with myself, I went down to Cal [University of California] Berkeley and kind of browsed around in graduate courses there for a year. Then I decided I would go back east, partly because I hadn't been back east. I just wanted to see what the East was like.

Gunterman: I hitchhiked back to New York City and got in touch with some Reed College people there, and the result was that--they were connected with the Bank Street School for Teachers, which still exists, only not on Bank Street--I signed up at Bank Street. I took a year and a half or so of course work and two years of practice teaching out of Bank Street. Then I got a job teaching at the Greenwich Country Day School, which was a boys' school, probably the wealthiest school in terms of parent group of any in the country. I taught there for two years, fifth grade.

In the meantime the draft was catching up with me. I had registered as a CO [conscientious objector]. When they drew the numbers, my number was number fourteen, the fourteenth person to be called up. So everything was brand new, and again, you had a very conscientious draft board that was just bound they were going to do everything right, follow all the rules to the letter. I know a number of the men below me were ruled out for physical reasons, and for all I know, number fourteen may have been the first good healthy specimen they had, and he turns out to be a CO! [laughs] Anyway, they didn't give me any trouble at all. They accepted my statements and asked the questions they were expected to, and then they gave me CO status.

So expecting to be called into CPS [Civilian Public Service] at any time, I didn't apply for another year at Greenwich County Day (I'm not sure I would have gotten it, but that's another matter), because I figured I would not be able to complete the school year, sometime in the coming months I'd be drafted. Having nothing else to do, I went home to Santa Barbara, and stayed with my parents for a few months.

While I was there I made the acquaintance of a young woman who was a Socialist, that's a Norman Thomas Socialist. Norman Thomas was going to come to Santa Barbara for a speaking engagement, and I helped her to make the arrangements, get the hall and print the tickets, and all of that kind of stuff. The Los Angeles chapter of the Socialist party was involved in this.

At one point they came up to Santa Barbara, and that's how I met Emmy Hartog, my wife, my present wife.

Sharp: Did you become a Socialist at that point?

Gunterman: Yes. I can't remember whether I ever went through the formalities; I guess I did. I probably did sign up with the party. Then the Los Angeles Socialists were wondering what had happened to the farm workers since The Grapes of Wrath. The Grapes of Wrath had come out a few years earlier and created a big excitement. Then everything was quiet. Had that changed anything?

Gunterman: So they wanted to find out--I went to Farmersville, down near Tulare. I was due to work in the orchards and the fields down there with the farm workers and find out exactly what had happened. I wasn't organizing or campaigning or anything. This was strictly an information-gathering thing. The Los Angeles Socialists paid me some small amount, which wasn't enough to live on. We could all recognize that, so I was really making my living off of farm work.

I was at Farmersville when Emmy came to Woodville nearby, where there was a government farm labor camp, an FSA [Farm Security Administration] camp. She stayed there for a while, worked with a young woman who was there for the American Friends Service Committee, and we were married in Farmersville.

I was out knocking bolls the day that Pearl Harbor was attacked. In those days, they picked cotton by hand. If you ever want a terrible job, it's picking cotton, dragging that sack behind you. Anyway, after they'd been through and picked the cotton that was good cotton, they would go back to snap bolls. There would be cotton bolls that had not opened, and you would pick the whole boll. Then they would take it to the gin and they would get the cotton out of it.

Sharp: Sort it out.

Gunterman: Yes. It was obviously a second-quality product, but still, it was worth it for them. That's what I was doing on Pearl Harbor day.

I came back to Farmersville and went over to the little restaurant to eat, and the waitress told me that, as she said, "The Japs had bombed Pearl Harbor." I didn't see how that was possible. I said, "No, you must be mistaken. They must have bombed Manila." I wasn't surprised that they'd bombed something. I was surprised that they'd bombed so far away from home. Manila would have been the logical target from my viewpoint. Anyway, so that was Pearl Harbor. That was in December, obviously.

In March Emmy and I were married, and in May I went off to CPS [Civilian Public Service] camp. I was in CPS camp for three and a half years.

Sharp: Were you in one camp?

Gunterman: No. I started out at Cascade Locks in Oregon, on the Columbia River. All of the camps, all the expenses of the camps and everything were borne by the three historic peace churches, the Friends, the [Church of the] Brethren, and the Mennonites. The only thing that the government provided was the work project. The federal government provided the Forest Service foremen and so forth, and the tools and the trucks for the work project. And it provided the site, which were mostly abandoned CCC [Civilian Conservation Corps] camps, barracks. (That's really a story in itself.)

Gunterman: But anyway, I went to the Brethren camp at Cascade Locks. There were a lot of guys in various camps, including Cascade Locks, who were very interested in co-ops, cooperatives. So with the encouragement of Morris Mitchell, who was a very active older liberal of those days, they organized a co-op school, which would be held at Walhalla, Michigan. Selective Service would permit anybody who wanted to be transferred to Walhalla for the school to go there. But you had to pay your own way.

Anyway, Emmy and Karen, our baby, and I went to Walhalla, Michigan. I was at Walhalla, Michigan as long as the co-op school lasted, which was something like six months or nine months. Then they closed Walhalla and sent us to Wellston, which was not many miles away. I was at Wellston for a year or something like that when they needed people to go west, because the fire season was coming, and our primary usefulness was in fighting forest fires.

So they were going to draft people out of Wellston to go west. Emmy and I had no reason to go east, west, or in between, so I said okay, we'll go west. So I was transferred to Gansner Bar, a camp near Belden on the Feather River, and I spent the rest of my time at Gansner Bar.

While all of this was going on, Emmy was living somewhere in the area wherever I was. While I was at Gansner Bar, she lived at the Belden resort, then at Rich Bar, a ghost gold-mining site, then with her brother Martin and his family in Sacramento.

II THE FRIENDS COMMITTEE ON LEGISLATION, 1961-1975

From the Caryl Chessman Period On: Contrasts Between Pat Brown and Ronald Reagan on the Death Penalty

Sharp: I'd like to bring you up to the start of your work for the FCL [Friends Committee on Legislation] and move us along into that period. In a brief way, what really led up to your coming into the FCL? I'm not even sure when it was.

Gunterman: I don't know when Emmy and I joined the FCL. But we heard about it or got some material or something shortly after it started, I assume, sometime in the 1950s.* So we were members of the FCL. At that time we were living in Gridley, up in Butte County.

After going through a whole bunch of temporary jobs, I had landed a job as a reporter for the Chico Enterprise Record. I was covering southern Butte County for the Chico Enterprise Record.

We got acquainted with Trevor Thomas, who was the legislative advocate for the FCL. When he was going to leave, he suggested I apply for the job. I had never thought of anything like that. As a matter of fact, I was a little scared of it, because I didn't take naturally to talking to people, trying to persuade them to something or talking before groups or hearings.

Anyway, in I guess it was '61, I went to work for the FCL. This was on a part-time basis. Prior to '66 the legislature met in a full session only every other year, so during the budget years the FCL did not maintain an office in Sacramento. It maintained an office only during the full-session years. So I started in the 1961 session.

*During his review of the transcript, Mr. Gunterman added the following information: "The FCL records show us as having joined in 1950. The FCL didn't exist then! Its earliest records are dated 1952."

Gunterman: Actually that first year I shared the job with a friend of mine, Bob McLane, who otherwise by trade was a carpenter and was very strongly interested in politics. We shared the job for the first year. After that he left, and I took it over entirely. It remained a part-time job. I was reporting for the Chico Enterprise Record. Somewhere along I was offered a job to cover everything north of Sacramento for the AFL-CIO labor unions. There were two papers. One was a monthly put out for the area centered around Chico and Marysville, and the other was a twice-a-month paper put out for the area around Redding. So it was my job to report and do a great deal to edit those two papers. I did that as a part-time job.

[During his review of the transcript, Mr. Gunterman added the following information.]

The Cascade Labor News (Redding area) and the Inland Empire Labor Review (Chico-Oroville-Marysville area) were published by the Olympic Press in Oakland.

The editor of the Olympic Press papers was Langdon Post, whom I remembered from my New York City days as Commissioner of Housing under Mayor Fiorello LaGuardia, and whom I admired greatly. Here he was, out in California, putting out a string of AFL-CIO papers. When I met him in a bar in Yuba City to discuss the reporting job, it was with an odd feeling.

[Transcript resumes.]

I discovered that I was making more money on the labor paper job than I was making for the Chico Enterprise Record, so I dropped the Chico Enterprise Record. In addition to the labor paper job, I took on the FCL, until the FCL went on a full-time basis in '66, and then I dropped the labor papers.

Sharp: I'm not even sure how your duties were sorted out in terms of what projects or what legislation you worked on. Maybe you could just briefly tell me how your work lined up for the first couple of years.

Also I wanted to go through this chronology on the death penalty with you and talk year by year.*

*See following pages for short chronology on the topic of the death penalty in California, 1963-1974.

Chronology on the Death Penalty in California, 1963-1974

- 1963 Assembly Committee on Criminal Procedure session in San Francisco, Stanley Mosk testified against use of the death penalty.
- 1964-1965 Californians against Capital Punishment active, supported AB674 to end death penalty in the state. Letter to Governor Pat Brown.
- 1967 27 April, execution of Aaron Mitchell allowed by Governor Reagan.
- 24 August, Judge Robert Peckham, Northern District Court of California, in San Francisco, ruled that NAACP and ACLU challenges to the death penalty would be heard; that individual cases on death row be consolidated to hear common constitutional questions.
- June, US Senator Philip Hart sponsored S.1760 to end death penalty.
- Consideration of Senator George Moscone's bill, SB403, to end the death penalty, lost. Included substitution of life imprisonment.
- Consideration of Congressman Don Edwards's bill against the death penalty in the House, lost.
- 1968 McMillan bill, AB1319, lost.
- California Supreme Court decision in Anderson and Saterfield.
- 1969 Assembly Waxman sponsored legislation to halt execution of five men on death row, bills called for moratorium on death penalty for UC study. (To stop execution of Dorman Fred Talbot, among others, scheduled for 18 February.)
- 1970 Governor Reagan signed AB1003 (Biddle) extending the death penalty to additional crimes.
- AB20 (Sieroty), against the death penalty, voted down by the Assembly Committee on Criminal Procedure.
- December, FCL members met with ACLU attorneys to map strategy for rest of cases still awaiting trials and possible new death sentences. This meeting was held after November 1970 arguments for US Supreme Court cases Crampton v. Ohio and McGautha v. California.
- 1971 AB13 (Sieroty), against the death penalty.
- 1972 February, California Supreme Court decision in Anderson, written by Chief Justice Donald Wright, against constitutionality of the death penalty. On same day as decision in this case, Senator George Deukmejian proposed SCA13 to reinstate the death penalty. California Supreme Court refused to rehear the case.

- 1972 June, US Supreme Court decision, 5-4, against use of the death penalty in discretionary sentencing; mandatory death penalty still constitutional; permitted new death penalty laws within the USSC guidelines.
- November, Proposition 17 passed, restoring death penalty. This proposition was supported by the Reagan administration, the DA's association, Peace Officers association. California voters nullified the state supreme court's decision. About half the states in the US had the death penalty at this point.
- After the state supreme court decision in Anderson, many death penalty proponents became supporters of life imprisonment without possibility of parole, such as SB307 (Richardson) and AB877 (Cory), both failed.
- 1973 June, death of Assemblyman Robert Crown, had been important force against the death penalty in the assembly.
- 1974 California Supreme Court imposed moratorium on death penalty despite fact that the legislature had refused thirty-five times in past forty years to repeal the death penalty.
- SB450 (Deukmejian) passed, restored mandatory death penalty for eleven crimes. Much stronger bill than what Proposition 17 had been designed to do; SB450 designed to take discretion away from judges and juries.
- FCL said it would work with groups like NAACP Legal Defense Fund (headed by Anthony Amsterdam) to continue struggle against the death penalty, after SB450 passed.
- December, National Conference of Bishops (Catholic) took stand opposed to the death penalty. First time they ever had done so.

Gunterman: We went through a process of change. When I first came on with the FCL, what the FCL was going to do in the legislature was discussed by the board of the FCL, which was called the executive committee, and priorities were laid out. We had a kind of a shopping list of our priorities--first priority, second priority, and third, and so forth. But that turned out to be somewhat irrelevant, because what we could do was determined so much by what was going on in the legislature, who was there, what the atmosphere of the legislature was, who was attempting what--

Sharp: Who was on what committees--

Gunterman: Yes, and so forth. So after a while we gave up that priority setting by the executive committee, and instead started in on a program of drawing up policy statements. The executive committee would draw up very broad policy statements on capital punishment, equal rights, mental health, and so on. ## I would look at the situation, and make my own decisions, really, as to what to do within those policy statements. Since the policy statements were always very broad, I had an awful lot of leeway. In effect, I made the decisions as to what bills we would work on and what we would oppose, and so forth. I would report back constantly each month as to how we were doing, what was going on.

But it worked out very well. There were only a couple of instances where I ran into objection on the part of the executive committee for something I was doing in Sacramento. I think it was largely because we were constantly in pretty close touch, and we had the same feelings about what was important and not important. They trusted me to make the determination within that range as to what could be done in any particular session.

Sharp: The issues that the FCL has been interested in, at least if you look at the newsletters for that '64 through '74 period, are fairly constant in terms of capital punishment, some corrections issues, gun control, fair housing. I wondered if that was always the case.

Gunterman: Shifts tended to take place in kind of broad sweeps over a period of years. The FCL started out largely because of the [Joseph] McCarthy-era type legislation--in other words, basically civil liberties. The ACLU [American Civil Liberties Union] was not around at that time as a lobbying group. Friends were concerned and Friends stepped in. They worked on the loyalty oath. They worked on freedom of speech issues, and so forth.

When I came on, we still had the residue of that around. We still had the loyalty oath problem. But we also got into some other areas. I remember especially the farm labor issues. At that time it had been a radical idea that the farm labor should have a minimum wage or that farm labor should get unemployment insurance.

Gunterman: So much so that it wasn't even accepted among all the Quakers. I mean, it was accepted among my board all right, but we had our problems outside of that.

So a shift was taking place from the civil liberties issues into other issues that might be considered a traditional Quaker concern. One reason we shifted away from civil liberties is that the ACLU did come in. Their first lobbyist—I don't know how much you know about this—was Cole [Coleman A.] Blease, who is now a state appellate judge. He was a lobbyist for the FCL when Trevor [Thomas] was there, and then when I came on, he shifted over and became a lobbyist for the southern California ACLU. We shared offices for several years after I came on.

So the ACLU took on the civil liberties field, and we would take kind of a secondary role on those. We got more into the farm labor issues. Then we got into the fair housing issues. At least during the years that I was there, I think we remained fairly consistent.

It's so easy over there to get distracted, because so much is going on that is of concern to you. You have to watch it that you're not just running off in every direction and not getting anywhere.

[During his review of the transcript, Mr. Gunterman responded to the interviewer-editor's request for an expansion of his comment about the problem of becoming distracted in lobbying work. His answer follows below.]

In any session there are at least a hundred bills that are of concern, to some degree, to the Friends Committee on Legislation. A lobbyist can work intensively on only about five to eight of them. You watch the rest, you alert others—including lobbyists on your side—you do what you can, especially as each bill reaches a critical point in the legislative process. The work never lets up. You keep trying to narrow things down, keeping your eye all the time on the few most important measures, trying not to spread yourself too thin. It's a very hard thing to do, because always so much is going on in the legislature that you feel has to be worked on.

[Transcript resumes.]

Sharp: I wanted to skip over the Caryl Chessman case because we have documented a lot with Pat Brown [Edmund G., Sr.] and other interviewees. That was one of the major issues in terms of the death penalty for Mr. Brown's governorship, and I wondered how the FCL was involved with that specific case. Maybe we could start out with that and push forward onto some of the other death penalty things later on.

Gunterman: I consider the Caryl Chessman period as kind of the high point of the anti-death penalty movement. I came in in either '60 or '61 when the Chessman controversy was reaching its height and coming to its end. I remember the final Senate Judiciary Committee hearing on the death penalty bill, which really revolved around whether Caryl Chessman was going to die. We were very active in that.

Sharp: Was it a matter of FCL representatives trying to meet with members of the senate committee?

Gunterman: That's right. That's what lobbying is. I mean, it's not so much meeting with the committee, but with members of the committee. You go around to see the individuals, and that was what we were trying to do. We were trying to persuade the members of the committee, and we were trying to get our supporters to write in to their representatives, and so forth. We were trying to figure out what strategies might work. Was there any way that through amendments we might get that last vote we needed, or the last several votes? Which is what you always do. So we were very much wrapped up in that. So was Cole Blease for the ACLU. And a lot of people out in the districts were very much wrapped up in it, particularly in the San Francisco area. We had a lot of support there.

Sharp: Yes, I would think so. The Chessman case as an episode really ended with the execution of Chessman, essentially with Pat Brown weighing all of this and then finally having the stay, but then letting it occur, sort of by default.

Gunterman: Some of us felt that Pat wasn't being strong enough at that time. I feel, looking back on it now, that if Pat Brown had taken a more firm stand, if he had pardoned or at least commuted the sentence of Caryl Chessman, that that would have kind of pushed things over the hump, and from then on it would have been possible to get the abolition of the death penalty in this state. But he didn't. At times we felt that he was kind of a tower of jelly. I don't mean that as my judgment on the man today, but I'm saying how we felt at that time, all wrapped up in the battle, that he wasn't being strong enough.

It was a very emotional, very gripping time for everybody that was involved in it, such intensity of feeling about it. I found out rather early that you don't--you really don't convince people on a rational basis on the death penalty issue. It's an emotional thing that comes out of religious feelings; it comes out of your feelings about mankind in general, or about certain individuals, or whatever.

In all the arguing I did with people on the deterrence question, or whatever, I felt that my facts and figures made a clear difference only once.

Gunterman: I can remember one person who was for the death penalty, and when I got through talking to him, he changed. But I knew that person in other capacities. I feel that he was just looking for a hook to hang his coat on, and that's what I gave him. I gave him a hook. But the coat was all ready to be hung.

Sharp: I wondered about that. In [Anthony G.] Amsterdam's article he goes through the different parts of the deterrence argument.* I wondered about how people really made that sort of decision, whether or not they were for the death penalty, how you approached people on it, especially in power, people on the senate committee, on the Assembly Criminal Procedure Committee, who would--

Gunterman: You know, they come at you with the deterrence question, so you have to argue the deterrence question. You realize as you do it that that's not really where the pay off is. The pay off is inside that person's feelings. So you also try to talk on the other basis, the humanity basis, try to create the kind of feelings that make a person say, "No, I can't go along with that anymore. I'll vote for abolition."

Sharp: In some of the other interviews that we have been doing on corrections and law enforcement, it's clear that, at least in Mr. [Ronald] Reagan's administration, there were people in the governor's office and around him in terms of the National Guard, and their close connections with the National Guard, and some of the related areas, that many of the people were ex-military or even still in the reserves, or had some close connections with the military. I began then to wonder about members of the legislature, how many of those men were ex-military, and how this might influence their feelings about the death penalty.

Gunterman: I never checked that out, how many had been in the military or not. Ed Meese and Herbert Ellingwood, Reagan's advisors on criminal justice matters, both had been lobbyists for the district attorneys. But I felt in those days the legislature pretty well represented the people of California, even when it made decisions I didn't like, that the legislators, the hundred and twenty of them taken as a group, pretty well represented what Californians thought and wanted. When a person is for the death penalty, it is not necessarily--not from my viewpoint--any evil heart that's involved. It's perhaps just another average guy from Main Street. Period.

*This is a reference to an article, "Capital Punishment," which appeared in The Stanford Magazine, Fall/Winter, 1977 issue, as adapted from a speech Amsterdam gave on the same subject to the Commonwealth Club of San Francisco in July, 1977.

Gunterman: You mentioned the military, though, and other types like that around Governor Reagan. You shouldn't forget that Edwin Meese III was his legal secretary, and when push came to shove, Reagan turned over that whole business to Meese. And Meese came to his job with the governor from--

Sharp: Alameda County.

Gunterman: --representing the DAS [district attorneys] and the peace officers in hearings against, testifying against abolition of the death penalty. He was a hard nut. You couldn't crack it. That was it. I talked to him at different times, but I always got a very cold feeling, cold and hard feeling from him. What can you do? [laughs]

Sharp: You can see on this death penalty chronology, one of the things that Mr. Reagan had to deal with almost immediately after his inauguration was Aaron Mitchell, and the execution, which was in April, I believe.

Gunterman: It was in April, yes, '67.

Sharp: Meese was clemency secretary at that point. I was wondering, from your viewpoint--maybe you've already guessed it--what your recollection is of how the clemency proceedings occurred, what sort of ideas went back and forth within the governor's office in terms of considering Mr. Mitchell's situation.

Gunterman: I don't know what may have gone on inside the governor's office. I was at the clemency hearing, which Edwin Meese held, which was held in the governor's office. There were just a few people there, including Aaron Mitchell's mother. The arguments were presented, his mother pleaded, it had no effect.

Sharp: Was that--it was no surprise that that--

Gunterman: It was no surprise. At that time, I think, a number of us felt that if you had been able to reach Governor Reagan, you might have been able to have an effect. But you couldn't get past the palace guard. He definitely turned the subject over to Edwin Meese, in effect saying, "You be my bodyguard on this one." We held a vigil outside the governor's house the night before Aaron Mitchell was to die. That was to me a moving thing, just a group of people with candles walking quietly up and down. We never saw the governor, of course. We understood that he was not at home at that time, but that he came in through the back door. The house ran from one street clear to the next, so he came in through the back entrance. Somebody told us that he had really been disturbed by it, upset by the vigil. Well, if we'd had a chance to talk to him, we might have been able to do something.

Sharp: But even that sort of evidence of real personal commitments--so much so that people would come and stand for several hours in front of the governor's house--may have disturbed him, but didn't make any difference, really didn't penetrate?

[During his review of the transcript, Mr. Gunterman answered this question more fully.]

Gunterman: No. From this moving, candlelit vigil in the dark I went home and, in the morning, to a hearing on Senator Moscone's SB 403, to abolish the death penalty. Others stayed on outside Governor Reagan's house until daylight, then moved their vigil to the hallway outside the doors of the governor's office in the capitol. At the same time the staff at San Quentin was making its last preparations to gas Aaron Mitchell. When we lost SB 403 after an hour and a half of testimony before the Senate Committee on Governmental Efficiency, Aaron Mitchell already had lost his life.

[Transcript resumes.]

Kind of a remarkable change in mood took place in the capitol when the change in governors came around. You know, Pat had been around for eight years, and he was a very friendly, easygoing guy. He'd be wandering around the hallways or wandering around downtown just talking to people. He'd walk up to you and shake hands and talk to you. I'm not sure he remembered who you were, but here was a familiar face, he'd better be friendly to it. [laughter] Anyway, that was very nice. There was no sense of fear.

Winslow Christian was on the governor's staff; later Winslow became a superior court judge in San Francisco. I believe it was Winslow who told me that the only time they had any feeling that the governor might be in some danger was one time when the governor went into the cathedral and somebody followed him in, a man. And then followed him out. Whoever was with him--perhaps it was Winslow--notified the police, and they stopped the man and interrogated him. Nothing came of it. The impression I got was that the man was an oddball, but there was no danger from him.

As soon as Reagan came in, he had bodyguards around him. There were peepholes put in the doors along the corridors so that people in the governor's office could look out and see who was knocking. All that kind of stuff.

Sharp: I know that especially with the re-election campaign in '70, there was a period of a lot of unrest among students because of some of the international events, and there was quite a tremendous security organization that was part of the campaign, that would precede Mr. Reagan going to the different campuses and the different events, just because there was so much fear that he could be in real danger.

- Gunterman: Yes. But he put in that security system, or part of it anyway, right when he came in, even before anything had happened that might make him think, "Gee, I'd better be careful." It was just the difference in the way the two men looked at people and life and everything.
- Sharp: Yes, there really was a real physical difference that you'd see right away.

The Death Penalty in California and Federal Courts and Legislation

- Sharp: I wanted us to talk about a few of the notes that I'd made on this chronology. It may have seemed somewhat short, but it helped me put together some of the different events and then put them in order.

One of the first notes was about this Californians Against Capital Punishment, which was not really part of the Reagan period, but I put it on there mainly because of some of the people on the list who were also some of our interviewees, like Mary Ellen Leary and some other people, and I wondered specifically about the bill, AB 674, which was meant to substitute life imprisonment, if I understand it correctly, for the death penalty--

- Gunterman: What year are you talking about?
- Sharp: Sixty-five. I think I sent you a copy of this.*
- Gunterman: Yes, you did.
- Sharp: Maybe this substitution of life imprisonment for the death penalty has always been an option, an alternative that people have been interested in. Could you just tell me a little bit about that?
- Gunterman: As I said before, there was a constant ongoing search for some version that would win the extra votes you needed. A popular amendment was this kind of thing, namely substituting life imprisonment without possibility of parole.

*See copy of AB 674 and the letter sent to Governor Pat Brown on the following pages.

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December 10, 1964

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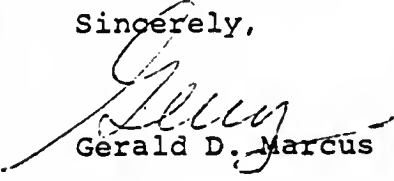
Dear Friends:

Enclosed is a draft of a letter which Mary Ellen has prepared to be submitted as soon as possible to the Governor. Please let me know if we have your authority to sign your name so we can submit this as promptly as possible. Some of you have already indicated approval but since some minor changes have been made I thought it best to make certain we are all together.

If by chance you do not reach me, will you leave word with my secretary, Miss Hilarie Daines.

Best regards.

Sincerely,


Gerald D. Marcus

GDM:hd

Enclosure

CALIFORNIANS AGAINST CAPITAL PUNISHMENT

December , 1964

The Honorable Edmund G. Brown
Governor of the State of California
State Capitol
Sacramento 14, California

Dear Governor Brown:

As you know, the purpose of Californians Against Capital Punishment is to abolish the death penalty in California. We want you to know we will support any move for abolition in the 1965 legislature and that we will do our utmost to educate public acceptance of such an advance in California's correctional system.

It is our hope that a bill to abolish the death penalty can be part of your 1965 legislative program.

A number of circumstances this year persuade us that a stronger case for abolition can be made than in the past.

In brief, these are:

- 1) The example of neighboring Oregon, where the public last month voted support for a constitutional end to executions, as proposed by the legislature, substituting instead 10 years in prison with no parole and thereafter permanent parole once a convicted man leaves prison.
- 2) State Supreme Court decisions, opening the way for new trials for condemned men, will have given California by January a two year period without a single execution.

This makes possible for the first time a specific answer to the principal legislative argument raised in the past; that executions deter crime. It is now possible to analyze California's criminal statistics, in the light of this two year interlude, and show that first degree murder is the only major crime whose rate is not increasing in our society. Murder-first rate has not varied one degree in 10 years, not even in the period of no executions (1964 not yet analyzed). We feel comparative studies related to the two year "de facto moratorium" could have an impact on the legislature and the public.

The Honorable Edmund G. Brown.....2

3) This year statistical data developed by the Department of Corrections and by scholars at University of California school of criminology concerning persons condemned to death for crime is more advanced than in the past, more specific and more elaborate. We feel it can be used to advance more effectively the argument that execution now is administered largely by chance and inequitably.

We consider it quite likely that the two year moratorium on executions will be brought to public attention during the legislative session.

It would be particularly unfortunate if the initial public discussion of this currently unappreciated fact were not raised affirmatively by those ready to assert that the absence of executions is totally unrelated to the incidence of crime or the necessity for public safety.

We fear this moratorium which the courts have brought may be seized upon by alarmists and used with a false focus to put on the defensive those who favor abolition, when it is in fact a potentially powerful argument for abolition.

We hope, rather, that the fact California has gone, for the first time in its history, two years without a public execution can be presented as a powerful argument to encourage a legislative end to executions, which have now had a judicial interruption. This present hiatus should, it seems to me, be turned into an argument to halt forever the public ordering of death by cyanide.

If a strong case has been made in the past from positions of morality, justice and swift-certain punishment, the need for to end the death penalty, certainly a stronger case can now be made against the death penalty being again resumed.

But we would find it awkward to take this case to the public without an abolition bill before the legislature.

Considering your long established position on this issue we would hope that the significance of these two moratorium years might be raised before the public at your initiative. Otherwise, we anticipate the likelihood of your administration having to take a defensive position on this issue at a time and under circumstances not of your own choosing.

The Honorable Edmund G. Brown.....3

For this reason we hope in the range of political decisions that must be made you will find it possible to include a bill to abolish capital punishment in your 1965 program.

We want you to know we stand eager to assist you, should you so decide.

Very truly yours,

Gerald D. Marcus, Chairman

Irving S. Rosenblatt, Jr.

Howard Jewel

Nancy Jewel

Daniel N. Loeb

Anne Alanson

Joseph Gunterman

Trevor Thomas

Mary Ellen Leary

Executive Board for Californians
Against Capital Punishment

CALIFORNIA LEGISLATURE—1965 REGULAR (GENERAL) SESSION
ASSEMBLY BILL **No. 674**

Introduced by Assemblymen McMillan, Burton, Stanton, Winton,
Beilenson, Brown, Dymally, Elliott, Song, and Warren

January 28, 1965

REFERRED TO COMMITTEE ON RULES

*An act to add Section 670 of the Penal Code, relating to
abolition of the death penalty.*

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 670 is added to the Penal Code, to
2 read:
3 670. (a) Commencing with the effective date of this sec-
4 tion, the death penalty shall not be imposed by any court or
5 be inflicted on any person for a crime under the laws of this
6 state.
7 (b) In any case in which a law of this state, except for this
8 section, provides for death as a sole or alternative penalty for
9 an offense, such law shall be read as if it provided, instead of
10 death, for life imprisonment without possibility of parole.
11 (c) Where, as a result of the application of subdivision (b),
12 there are alternative penalties for an offense, one being life
13 imprisonment without possibility of parole and the other being
14 life imprisonment with possibility of parole, it shall be the
15 duty of the jury, or of the judge, if trial is without a jury,
16 to specify which punishment shall be imposed. Wherever Sec-
17 tion 190.1 refers to death, it shall be construed to refer instead
18 to life imprisonment without possibility of parole.
- 1 (d) In any case in which, prior to the effective date of this
2 section, a person has been sentenced to death but has not been
3 executed, he shall not be put to death, but instead it shall be
4 deemed that he was sentenced to life imprisonment without
5 possibility of parole.
6 (e) In any case in which, prior to the effective date of this
7 section, a person was convicted of an offense punishable by
8 death, but is not sentenced until this section is effective, the
9 permissible penalties shall be as prescribed by subdivision (b)
10 for persons convicted on or after the effective date of this
11 section.

LEGISLATIVE COUNSEL'S DIGEST

AB 674, as introduced, McMillan (Rls.). Death penalty.

Adds Sec. 670, Pen.C.

Abolishes death penalty and substitutes therefor the penalty of life imprisonment without possibility of parole. Makes present procedural provisions governing determination of penalty in cases where alternative penalties are death or life imprisonment applicable where alternatives are life imprisonment with, and life imprisonment without, possibility of parole. Makes present prohibition against death penalty for person under 18 years at time of commission of offense applicable to penalty of life imprisonment without possibility of parole.

Gunterman: Some of us wouldn't oppose that, but also felt we couldn't support it, because life imprisonment without possibility of parole is by itself a kind of a living death.

[During his review of the transcript, Mr. Gunterman added the following comment.]

Also, it is based on the same assumption as is the death penalty, namely, here is a murderer who can never change, never become someone who lives a normal, productive life. That obviously isn't true. The number of murderers who are out, living peaceful, productive lives, is vastly greater than the number we have released and then had to send back to prison for some new crime.

[Transcript resumes.]

Others felt that as long as the person is alive, there's some chance that you can get him out, especially since the governor still has the power to commute or to pardon.

The opponents weren't moved by that proposal. You know, you didn't win them over, because they would say simply, "Well, there's no such thing as life without possibility of parole, because the governor has the power to commute, to give a pardon."

I think that when we were working on bills including that, we probably didn't actually convince anybody: "This is okay now, I can do it." But rather we may have provided a way for some legislators who were politically uncertain to say, "Okay, I can do it now because I have something on which I can base an argument with my constituents."

Another knotty problem--and it was always coming up--was exceptions. The death penalty is abolished "except for"--then you decide what your exceptions are going to be. Well, the FCL could never go for that. In a sense, if you put an exception in, you're saying it's wrong to kill everybody except so-and-so, and it's all right to kill so-and-so. We couldn't go for that.

Some other people who were working on the issue felt they could, you know, on the basis that: "If we can save lives, that's what we're here for, and if we can get through some abolition with a few exceptions, then we can work on removing the exceptions. It doesn't mean we're just going to stop."

There was also an effort of some people to--well, it was almost like a game, trying to figure out which exceptions would have the least impact. You put in an exception for somebody who has done such-and-such a crime, but such-and-such a crime, the statistics show and the history shows, never exists, or seldom exists. Some

Gunterman: people were going through that kind of thing. So you got all kinds of bills at different times that had different provisions in them. As the FCL, we would not oppose one of those bills with exceptions; we simply would remain neutral and make sure that there was also a bill in that we could support.

Sharp: I did notice that in every legislative session there were several anti-death penalty bills of some sort or another. I wasn't sure how they all differed. But it definitely was a persistent effort.

Gunterman: That's right. There was a persistent effort to abolish the death penalty, and the variations on these amendments were in those two areas, life imprisonment without possibility of parole, and perhaps tampering with the governor's power to commute or pardon; and on the other hand, the writing of exceptions.

[During his review of the transcript, Mr. Gunterman added the following comment.]

You have to remember that the capital punishment issue didn't involve only bills to abolish the death penalty, to declare a moratorium on the death penalty, to add or subtract from the list of crimes for which a person might be executed. It involved such things as the biased jury question. If you excuse all people who are conscientiously opposed to the death penalty from a jury that is to try a capital case, aren't you creating a jury biased towards a death sentence, even towards a finding of guilt?

That was an issue before the legislature for some years, finally decided by the U.S. Supreme Court. The court ruled that you couldn't exclude a person from a jury solely because he or she was opposed to capital punishment. Then there was the question of the legal definition of insanity, a question about which the lawyers and the courts are still arguing. There are many questions relating to trial procedures, appeals, and so forth that may affect whether a defendant ends up on death row. Bills dealing with these questions came before the legislature, and many of them were to us death penalty bills. So we worked on them to the extent that non-lawyers could work on them.

[Transcript resumes.]

Sharp: Let me just ask a few different kinds of questions. I'd seen a note—it is also in the chronology—in '67 on Judge [Robert] Peckham's ruling on death penalty challenges. It seems like the [federal] Northern District Court [in San Francisco], in any case, was moving in sort of the opposite direction from the new governor,

Sharp: from Governor Reagan. At least from what I gather from Judge Peckham's ruling, he was trying to slow down, put some roadblocks in the way of the death penalty and slow it down.*

I wonder how the FCL was viewing the courts, both state and federal, in this period. You had some real victories a little bit later on. Nineteen sixty-eight is a bad year in terms of the California Supreme Court. It then reverses itself in '72, and the U.S. Supreme Court then--.

Gunterman: At that time we were really putting our hopes in the courts. As you noticed in reading the materials, even though we had anti-death penalty bills in each year, the push was not behind them.

From the Caryl Chessman session on, it became less and less, and sometimes I would be over there in the hallways working on it, on a bill, and feeling terribly lonely. And sometimes a bit angry, you know. Because here are all these people who want to abolish the death penalty but won't back us up.

It never became a pro forma thing, because every bill gives you an opportunity to argue the issue again. Every bill gives you an opportunity to change the atmosphere. Well, what you do is really you create another dialogue, whereas if you don't have any legislation in, there's nothing to work from and nothing to talk about, no educational process basically.

Sharp: Sure.

##

I was intrigued to see a very different kind of legislative involvement in '69 on the part of Assemblyman [Henry A.] Waxman. As I understood that bill, what he was actually doing was attempting to halt the execution of specific people, which I had assumed was something that could be done only in a court proceeding. I don't know if you recall that.

Gunterman: I didn't until you mentioned it.

Sharp: Because it seemed unique, I mean that it wasn't just your basic anti-death penalty bill that was more general. What Waxman was

*This is a reference to Peckham's ruling on 24 August 1967 that NAACP and ACLU challenges to the death penalty would be heard, and that some individual cases on death row would be consolidated to hear common constitutional questions. Editor was unable to locate the exact case citation.

Sharp: doing was coming right down to five specific people that he was trying to get off death row. It seemed pretty incredible.*

Gunterman: I don't remember the bill. But what I assume was happening was that Waxman was calling for a moratorium for a brief time, which would cover the period during which otherwise these men would be executed. And if the moratorium were in place, the men would not be executed. I mean, you didn't need to name them in the bill. As a matter of fact, you couldn't. But the courts certainly, if a moratorium were in place and a study was being made, would grant stays. That's what I'm sure must have been going on.

Sharp: I wondered if we should talk a little bit about how the FCL would work with the ACLU in terms of death penalty cases. I noticed in 1970 (and I got this out of the FCL newsletter) that there were some meetings held with representatives from the ACLU after those two U.S. Supreme Court decisions.** I'm interested in how you and your organization would work with the ACLU on these cases, just to sort of illustrate other ways in which the FCL worked.

Gunterman: We were in touch not just with the ACLU but also with the NAACP Legal Defense Fund, with Tony Amsterdam, who was heading up the whole thing, on anything that might help the legal case.*** Mostly, of course we--and that was primarily I myself as lobbyist getting information as to what was going on, what was anticipated in the court.

There might also be suggestions as to what would be or would not be a good move in the legislative arena at that time, in the light of the fact that the court has such-and-such an issue before it. We wouldn't want to be doing something in the legislature that might have a bad effect from our standpoint in the deliberations of the court.

*Assemblyman Waxman's bill called for a moratorium on the death penalty and for a study of it by the University of California. Waxman was trying to halt the execution of Dorman Fred Talbot, which had been scheduled for 18 February, 1969, and of other people on death row.

**In November, 1970, the U.S. Supreme Court considered two cases in which the death penalty had been imposed, Crampton v. Ohio and McGautha v. California.

***See the following page for an excerpt from the FCL Newsletter for January, 1972, which discusses progress of anti-death penalty efforts.

CAPITAL PUNISHMENT

One of the first bills before the legislature in 1971 was a bill to abolish the death penalty, AB 13 (Sieroty, D., Beverly Hills). The bill, with five of the nine members of the Criminal Justice Committee as co-authors, would have substituted life imprisonment with possibility of parole.

However, challenges to the constitutionality of capital punishment were before the federal courts. A hearing on AB 13 was postponed until June 22, after the U.S. Supreme Court had ruled on *McGautha v. California*. McGautha challenged the legality of giving juries unregulated power to sentence defendants convicted of capital crimes to life or death. The court rejected that challenge.

Chief witnesses for AB 13 at the June 22 hearing were Ramsey Clark, former U.S. Attorney General, and Anthony Amsterdam, a Stanford University law professor who heads the NAACP Legal Defense Fund's court attacks on the death penalty. Opponents were, as usual, the representatives of the Peace Officers' and District Attorneys' associations. The Criminal Justice Committee's "do pass" recommendation marked the first time since 1964 that a bill against the death penalty had gone to the floor of the Assembly.

Polling of the entire Assembly membership, and repeated efforts to secure the firm support of wavering Assemblymen, left uncertain whether the needed 41 votes for passage could be found on the floor. A violent outbreak in San Quentin prison created a negative mood in the legislature on prison issues. The U.S. Supreme Court announced that it would hear new capital punishment challenges during its 1971-72 term. For these reasons Assemblyman Sieroty decided that AB 13 should not be brought to a vote.

Sieroty has reintroduced his bill as AB 10 of the 1972 session. However, the history of 1971 is likely to repeat itself unless some as yet unforeseeable event creates an upsurge in public support for abolition. What is more likely to happen is that critical decisions on capital punishment will be made in 1972 in the courts.

In the Courts

Despite the fact that more than 650 condemned men and women, a record number, sat in death rows across the country at year's end, the close of 1971 marked the third full year of an unofficial moratorium on the use of the death penalty. The length of the moratorium has been due, in part, to judicial reluctance to execute anyone pending the outcome of constitutional challenges to capital punishment.

One such challenge was rejected by the U.S. Supreme Court on the same day, May 3, that it handed down the *McGautha v. California* decision. As with *McGautha*, *Cramp-ton v. Ohio*, which questioned the legality of determining both guilt and punishment in the same trial, was turned down, 6-3.

On June 28 the Court reversed the death sentences of 32 people when it reaffirmed two earlier decisions. The Court ruled, as it had in *Witherspoon v. Illinois* in 1968, that prospective jurors conscientiously opposed to the death penalty could not be excluded automatically from juries deciding capital cases. It also decided, as it had in *U.S. v. Jackson*, that a statute which imposes the death penalty only if a defendant refuses to waive his right to a jury trial places unconstitutional pressures upon a defendant's exercise of his Fifth and Sixth Amendment rights.

The most significant action taken by the Supreme Court during 1971, though, was its decision in late June to hear four cases challenging the death penalty itself on constitutional grounds. This is the first time the Court has agreed

to rule upon the contention that the death penalty is "cruel and unusual punishment" forbidden by the Eighth Amendment. Earlier the Court had considered only challenges to procedures used in imposing the death penalty, or, in some cases, attacks on particular methods of execution.

The hearing originally was scheduled for October 1971, but with the resignations of Justices Black and Harlan, it was postponed. Argument is now scheduled for Jan. 17, 1972.

The Court can make one of three decisions: it can declare capital punishment unconstitutional; it can uphold the use of the death penalty; or it can find a lack of sufficient evidence in the four cases. Accordingly, anti-death penalty groups in California are making contingency plans for evidentiary hearings before a federal district court. These hearings will provide testimony from 30 or more expert witnesses on the brutalizing effect of the death penalty, not only on condemned men, but also on those who have to administer executions and on the society which tolerates such executions.

In Congress

The death penalty moratorium has been unofficial. Often stays of execution have been granted on a virtual day-by-day basis. Moreover, the stays granted have been for undetermined periods of time, pending a Supreme Court decision.

In an effort to guarantee that no one would suffer the "irreparable damage" of being executed before the Court hands down its decision, Senator Philip Hart (D., Michigan) and Representative Emanuel Celler (D., NY; chairman, House Judiciary Committee) have introduced legislation for an official two-year moratorium. The bill would give the states and the Congress a set amount of time to examine the issues surrounding capital punishment. It would relieve the courts of the task of granting individual stays to 650 people.

Other Congressional efforts to impose a moratorium on the death sentence have been led by Rep. Robert McClory (R., Ill.) and Rep. Don Edwards (D., Calif.). Rep. Celler and Rep. Andrew Jacobs (D., Ind.) introduced separate legislation to abolish the death penalty for federal crimes. Rep. Jacobs also sponsored HR 193, which would abolish the death penalty entirely.

A one word difference between the U.S. Constitution and the California State Constitution might give capital punishment opponents a better chance to abolish the death penalty on the state level rather than on the national level. While the Eighth Amendment to the U.S. Constitution prohibits "cruel and unusual" punishment, the state constitution forbids "cruel or unusual" punishment.

This subtle difference was crucial in arguments before the California Supreme Court which agreed to hear, on January 6, two cases directly challenging the death penalty's legality. Anthony Amsterdam, leading a battery of lawyers, argued that if the Court finds capital punishment to be either cruel or unusual, it must declare the death penalty to be a violation of the state constitution.

CAPITAL PUNISHMENT

Date of last execution: April 12, 1967.

Number under sentence of death, January 1, 1972: 104.

Executions scheduled: None.

Sharp: Do you remember any sorts of decisions that you made about some of the legislation?

Gunterman: I really don't. I just remember that we really were in touch quite a bit. One thing Tony Amsterdam wanted was help in gathering information as to what was going on elsewhere in the country, because he was operating with little or no staff, and it was very important to him what was happening in Michigan, Texas, or wherever. So we tried to keep information going into him.

Sharp: In terms of the courts, of the California Supreme Court, there were two decisions that I found in this period of Mr. Reagan's governorship that were pivotal in terms of the death penalty. One is 1968, and the other is February, 1972. I think, if I'm not mistaken, they are both involving the same person; they are both Robert Page Anderson.

Gunterman: Yes. Anderson was in there for a long time.

Sharp: Now, in '68, of course, the California Supreme Court said, yes, that the death penalty was constitutional. In '72 it was the reverse. They say basically that it was unconstitutional. I wondered how that happened. Was it just due to changes in the justices? One person is clearly new, and that's Chief Justice Donald Wright, who actually wrote the '72 decision, and happened to be an appointee of Mr. Reagan.

Gunterman: Really that would be a better question to ask the lawyers who were involved in it at the time. My guess is (and this is just a layman's guess) that Chief Justice Wright did have that influence.

Of course, if you talk to Tony Amsterdam and others who were involved, they may be able to point out specific legal arguments that changed.

Sharp: Let me just ask you about those people now, because Professor Amsterdam wrote me back and said that Paul and Deborah Halvonik were both people that might be able to tell us more about the legal--.

Gunterman: Yes.

Sharp: What were they doing then, at this point? They worked with Amsterdam?

Gunterman: They worked with him. I remember Paul--Paul was working with Tony Amsterdam, and he had a big role in some of the supreme court litigation. Then for a while afterwards, Paul was ACLU lobbyist here in Sacramento. Of course, then, he was working on the legislation. He lives in Berkeley, so he wouldn't be very hard to get.

Sharp: Deborah, is that his wife?

Gunterman: Yes.

Sharp: And she was involved--

Gunterman: I really don't know her.

Sharp: There are a couple of other people. One was Jerome Falk.

Gunterman: Yes. There I think you'd better talk to Paul Halvonik. I remember Falk as being around, testifying and so forth, but I also remember somewhat uncomfortably that there were some strategy differences. Since I don't remember clearly I would rather not talk about it.
[laughs]

Sharp: The last person then is Don Fields. Professor Amsterdam said that Don Fields was a producer for KRON TV in Sacramento?

Gunterman: Yes. I had forgotten about him completely until I reread some of the old FCL stories. I remember that he was a chief witness at one of the legislative hearings--I forget which one. But as I remember it, he was in my consciousness for a relatively short time, but while he was there he was a very strong and active figure.

Sharp: Is he still around?

Gunterman: That I don't know.

Sharp: Amsterdam says that he lost track of him, too.

There's a swing in the opposite direction, away from the California Supreme Court, by California voters at the end of 1972 with the passage of Proposition 17.

Gunterman: That's right.

Sharp: I had understood that that proposition had heavy support from the peace officers' and district attorneys' associations. But two questions are connected: what your perspective was, or is, on Prop. 17, and then how the FCL might have been working against its passage.

Gunterman: I remember it as somewhat like a flood. We might do what we could as a very small organization to try to stop it, but it just wasn't in the cards. By that time the pendulum really had swung, and people were getting more punitive in their thinking, harder, and it was pretty much a foregone conclusion that that proposition would pass.

Sharp: Why? Why were people pushing towards more punishment?

Gunterman: Well, there were all kinds of things that happened that frightened people or angered them. The [Robert F.] Kennedy assassination, the general increase in crime, at least in reported bloody crimes, the [Charles] Manson case and that kind of thing. I don't know when Manson came in, maybe it came before or after, but I think if we went back over the press of the time, we would be able to see it, how these very shocking cases came up, and too often came up just at the wrong time from the legislative standpoint. [laughs]

Sharp: How did the FCL really work against the proposition?

Gunterman: In any way it could, which wasn't very much, because it is a small organization. Its resources are very small. And on a statewide proposition campaign, you need thousands of dollars, you need an organization, so forth. So the best we could do would be to try to get our membership active, get the Friends' meetings active, perhaps to join in with whoever was planning the opposition to the proposition, helping at the planning level. But in any statewide proposition, there's very little weight in the FCL.

Sharp: The idea of mailings and all of that is pretty expensive.

Gunterman: It is very expensive. You have to do it on a mass basis. So we send out our newsletter, we send out mailings to the people we have on our lists--but so what? That's only a few thousand people.

[During his review of the transcript, Mr. Gunterman added the following comment.]

But I think the FCL role during those years was much greater than would be indicated by its numbers or budget. For one thing, our members were more likely to vote, more likely to be active on issues, than the average citizen. They were likely to be educated people, able to understand the issues and what needed to be done to achieve a legislative goal. They were likely to be leaders in their churches, organizations or communities, so they could influence others.

For another, there weren't many "good guy" lobbies in Sacramento during most of those years, and the FCL had been there the longest, so new people and organizations came to the FCL for information and for advice on how to get started in lobbying. Also, the FCL was non-partisan and non-threatening, so it was a natural center for working together and for coalition-building.

The Quakers have a good image--that is, among people who know about them at all. You know, you learn in history in grammar school that the Quakers were peaceful, honest and courageous folk who helped slaves escape from the South and that William Penn treated the Indians fairly. So people came to the FCL with positive feelings. Oh yes--the FCL served as an alarm clock for other organizations

Gunterman: throughout the state, alerting them when action was needed on bills both they and the FCL were interested in. That's another way the FCL was able to have a bigger influence than you might expect.

[Transcript resumes.]

Sharp: After this proposition passed, then, there is a fairly remarkable bill passed in '73, and that's Senator George Deukmejian's SB 450, which was a powerhouse in terms of extending the death penalty to more crimes than had been listed before. In the opposite direction certainly from what you wanted.

Gunterman: Deukmejian is a very hard person. I don't know what it's grounded in, what happened to him where or when or why, but he is almost obsessed on the subject of crime and the need for more and more punishment, tougher and tougher punishment. He's very hard on that. There's nothing you can do with him.

He puts in that kind of extreme stuff at a time when people are frightened about crime, about violence. So very few people dare to stand up against him on it, and it goes through.

Sharp: Do you remember working against this particular bill?

Gunterman: No, I don't.

[During his review of the transcript, Mr. Gunterman expanded on his answer to this question.]

Frankly, it is as though I had blacked out on that one--that is, on what we did, with whom we worked, and so forth. Of course, just the year before the people of California had voted to restore capital punishment, through Proposition 17. So the proponents of the death penalty had vox populi behind them. But Deukmejian's SB 450 not only restored state executions, it mandated them, and it mandated them for more crimes and combinations of crimes than the old law had provided for. In spite of the election results on Prop. 17, thirty-seven legislators voted their consciences, voted "no" on SB 450.

Thinking about that, you think about the question, "What is the job of a legislator?" Most legislators think their job is to do what the voters want, and what the voters want is expressed in public opinion polls and in election results. That's not my idea of representative government. I think legislators should look at the facts, listen to the opposing viewpoints, and then vote their own best judgments. That's what the British Parliament did in 1982. After a landslide Conservative victory, and with public opinion polls saying that 70 percent of the people of Great Britain

Gunterman: wanted capital punishment back, a bill to restore the death penalty was brought before the House of Commons. It was voted down by a large majority. Over here, that wouldn't be looked upon as practical politics.

[Transcript resumes.]

Sharp: After it passed, you remarked to me on the phone that much of your work had shifted to working with some legal defense groups, and I wondered when that shift started to occur.

Gunterman: It started way back when court actions started becoming important, and it increased as the court action became more and more and as the possibility of doing anything in the legislature seemed to have less and less importance. I think that probably the turning point was on that last McMillan bill--which was that, '68, wasn't it?

Sharp: Yes. The only 1968 anti-death penalty bill.

Gunterman: Yes, one of [Assemblyman Lester] McMillan's anti-death penalty bills.* It came at the time when Robert Kennedy was killed. And cases were before the court. We had to pretty much persuade McMillan to drop this bill. As a matter of fact, I was the one that wrote his press release. [laughs] Because the combination of circumstances was too great and another defeat wouldn't help us any.

Sharp: You've talked about working with the legislature, and being guided by other circumstances in terms of knowing when to push bills and when not to push them. Just overall, I wondered if there were changes in this period in how the FCL worked with the legislature and what sort of tactics were used.

Gunterman: We've talked at present almost entirely of the death penalty, and as the death penalty fight shifted from the legislature into the courts, I was spending more time on our other issues, simply because there was just so much time to spend productively in the legislature on that issue.

We went through the farm labor issues, the fair housing, the racial equality issues; anti-discrimination issues lasted for a long time and took a lot of work and effort. We got into the school lunch program, which really started out as a concern for nutrition for children. The one place where it seemed that

*This was AB 1319, which provided for a substitution of life imprisonment without possibility of parole for the death penalty.

Gunterman: something needed to be done that could be accomplished was in reduced price or free lunches for kids, low income kids at school. So more and more of my time was spent in other fields.

The FCL's Advocacy Methods; Notes on the Reagan Administration
Record on Social Programs

Sharp: I was hoping we might be able to get into some of the other areas that the FCL was active in to sort of broaden our perspective on what the FCL was doing as an advocacy group during this period. I have a few wind-up questions on the death penalty. Then I'd like to push us into this broader area.

Gunterman: You asked earlier about the arguments we used on the death penalty and how you talk to legislators. One of the things that legislators would bring up again and again was the most recent horrible case, you know, some policeman that was shot or--

Sharp: "What about--?"

Gunterman: Yes, "what about so-and-so," "what about--?" My answer was that, "I'm not arguing on their behalf, on the behalf of the people who did this--they may be the scummiest people in the world. They may need to be removed from society into some situation where they cannot do that to people again. But what I'm talking about is you and me, and what this does to us when we agree to what is, in effect, premeditated murder, become part of it."

I'm not sure that that made any more point than anything else, but it was at least an effort to destroy the sob sister concept of people who are opposed to the death penalty.

Sharp: It also brings it to a real personal level, how you feel about it, how they might feel about it, and so on.

Are there any conclusions that you ever came to about Reagan's role in death penalty matters overall in terms of the entire administration?

Gunterman: No. He's a strong supporter of the death penalty, but during his regime he didn't have to--except in the Aaron Mitchell case--he was not put in a decision-making position. No bill ever approached him. The bills all died--

Sharp: Long before.

Gunterman: Long before. So he did not have to play an active role in the legislative process.

Where people felt the impact of Reagan more, I think, was in the budget field, in the social services field, just as they're feeling it now when he's in Washington.

Sharp: Maybe we can talk more about Mr. Reagan and the ways in which you felt his presence as governor in terms of some of these other issues, like the school lunch program and that sort of thing. I don't imagine that that was something that he would actively support.

Gunterman: No. First of all, he was not a hard-working governor. We understood that he worked off of memos which his staff prepared, one-page memos, and then he'd make a decision. But he would not put a lot of time and effort and initiative into the job of being governor. Where push came to shove, legislators would meet with him, would argue with him. Preferably you'd get some Republicans in to meet with him and argue with him. You could make some headway, especially since you had a Democratic legislature. You had a balance there.

One of his big issues was welfare reform. We were not working heavily in that field. I was not involved in the discussions that went on with Reagan on that. But we knew they were going on, we knew who was involved, and so forth. There was really a need to push Ronald Reagan very strongly, but you could get somewhere if you did. Out of all of his welfare reform hoopla that he was talking about came some legislation that was good, because there were people in there who were able to negotiate, who were able to keep the pressure on, and at the same time keep everybody around the table.

[During his review of the transcript, Mr. Gunterman added the following comment.]

We who were on the outside were told that it was Leo McCarthy, then assembly Democratic whip, who held the welfare reform negotiations together in 1972, who was able to calm things down when they threatened to blow apart. Knowing Leo, I can believe that that was true.

[Transcript resumes.]

Sharp: What was noteworthy about some of the welfare reform legislation?

[During his review of the transcript, Mr. Gunterman answered this question more fully.]

One of the good things that came out of those talks was a statutory requirement that people on AFDC [Aid to Families with

Dependent Children] receive a cost-of-living increase each year. AFDC recipients hadn't received a grant increase in years, which meant that, because of inflation, the buying power of their grants had gone down each year. That cost-of-living requirement is still in the law but in recent years had been suspended by the legislature, a year at a time, whenever the budget got tight. Still, even in those years they've given AFDC recipients something, so their buying power hasn't gone down as fast as it used to.

[Transcript resumes.]

Gunterman: Reagan came in with the simplistic idea that; "There's an awful lot of corruption, a lot of cheaters, we can save untold amounts of money if we just crack down on the cheaters." Then he found out that that wasn't true, that there was just not that much cheating going on.

Incidentally, in one of the hearings about that time, somebody on the committee said something about the welfare mothers who drive around in Cadillacs, and Virna Canson from the NAACP* said, "Who sold them those Cadillacs?" [laughter]

Sharp: Really turning it around.

Gunterman: Yes. Anyway, Reagan could be pushed. I mean, he had some give to him, apparently more than Deukmejian has. Deukmejian has shown no give up to the present.

Sharp: This is really my last question about the death penalty. Then I wanted to talk about some of the farm labor and fair housing issues.

But what about the issue of the death penalty as a corrections matter? I wondered what corrections officers and the corrections professionals were doing while the FCL was working against the death penalty.

Gunterman: The Department of Corrections does whatever the governor wants it to do, and how Corrections stands on the death penalty officially, in the open, publicly, depends on where the governor stands. Actually, many wardens are not happy with the death penalty. It does not make running a prison easier to have the gas chamber in your prison, have all the tension, the fear, and so forth that goes on. Warden Clinton T. Duffy for years was one of our old

*National Association for the Advancement of Colored People

Gunterman: faithful workhorse witnesses on that subject. But there have been others, too--Austin McCormick, who was warden at Sing Sing, was a strong opponent to the death penalty. I think if you took a poll among wardens, you'd find a lot of them who'd say, "If I could just get that off my back, I would be happy."

So except as the department reflects the official viewpoint of Pat Brown or Ronald Reagan or George Deukmejian, you don't get much flack from Corrections, and you get a lot of support from groups like the National Council on Crime and Delinquency, which is very heavily made up of corrections, parole, and probation people. They have a real strong position against the death penalty. They don't lobby, at least not in the state of California. But they do have a strong position and an immense amount of material on the subject.

Sharp: I was very interested to see the pieces in the FCL newsletter on what was happening in the different states in terms of the death penalty and where California was standing, or sitting on the fence really, between support for the death penalty and being against the death penalty. I wondered how much contact you had with other groups and other states, and if you would sort of keep in touch with each other and use arguments?

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[Mr. Gunterman answered this question during his review of the transcript.]

Gunterman: Our contacts with other groups and with non-FCL individuals within the state were continuous. When we needed help, we'd get it wherever we could find it, especially when it came to trying to change the mind of a specific legislator or to rounding up effective witnesses for a hearing. As far as our contacts outside the state were concerned--they might reach far, even as far as Europe, but they were intermittent and haphazard.

[Transcript resumes.]

They would hear about what was going on and write us, or we'd hear about what was going on and write them. Perhaps a national organization like the ACLU might have something in its publications that refers to other states. It was, as I remember it, a pretty haphazard kind of--. We had a hard enough time holding things together north and south in California. [laughter]

Sharp: From what you're describing, unless you're being extremely modest, the FCL was, as lobbying groups go, small--

Gunterman: It is.

Sharp: --a shoestring operation almost, compared to many of the other more formal lobbying efforts.

Gunterman: See, first of all the FCL came in here to Sacramento as the first cause group, the first good guys group to maintain an office, to maintain a full-time representation (or full-time while the legislature was there). There had been other groups, like the League of Women Voters, who had been in and testified on things, but nobody had set up an office and decided to go into the same work on a major basis the way the private interest lobbyists had been doing for years. We were first, and then came the ACLU, the next group as I remember it. The California Federation of Teachers was in for a while. They're still around.

Gradually there was a time when we would hold a "good guys" lunch, a brown-bag lunch, over at the Westminster Presbyterian Church, and this went on for a number of years. The function of it was so that the various "good guys" would be able to exchange views on what was going on and suggestions, and so forth. It served the purpose primarily in providing support and education for new lobbyists who were coming in, because more and more cause groups were becoming involved, were setting up activity. They'd send somebody in that didn't know their way around, and the first thing to do is to go to the "good guys" lunch.

Sharp: Some of the environmentalists?

Gunterman: The environmental groups came in. The children's lobby. Now, I think, the high count on cause lobbyists--there's always a gray area at one point, but anyway, would have been around twenty-five when I left in '75. I suspect the number is much larger now, and that some of them have much bigger operations than the FCL ever had. Though the FCL has grown considerably, too.

So the FCL is a small organization; it's a shoestring organization. So it doesn't threaten through numbers. It couldn't if it wanted to. And it certainly couldn't do anything in the way of campaign contributions if it wanted to.

We've had to rely on credibility. Credibility--you make darn sure whatever you bring to the legislators is true, the fact, as far as you know it. Of course, I think all good lobbyists do that. It's not just an attribute of the Friends. But we were very strict about that.

We were also very strict about being nonpartisan. We have never supported candidates or opposed them or drawn conclusions as to whether the Democrats are doing such or the Republicans such.

Gunterman: We have printed voting records, but always with the disclaimer that these voting records do not necessarily represent what the legislator has done--you know, when he's not voting. They're to be used as a basis for talking to the legislator, discussing things with him.

We've always tried to operate, to some extent anyway, on the idea that you never know where you're going to find a friend. Which means that sometimes you'll find support where you didn't expect it.

Then finally, I think that a very big factor in it is the fact that I was there for fourteen years, and they get used to you. You know, you're part of the fixtures around there, and they relate to you. So that when you come to them, they'll listen to you. I think that's an awful lot of it. It pays off in terms of influence for a group to have a lobbyist in there for a long time.

Sharp: Yes, I would think so.

Fair Housing, Farm Labor, Campus Unrest, and Prisoners' Rights:
Critical Issues for the California Legislature and the FCL

Sharp: The issues that you've brought up that we want to talk about, in terms of farm labor and fair housing, and then the death penalty, were these (and this may have quite a bit to do with your procedures in terms of lobbying and just talking with legislators) perceived by the FCL as minority issues, or is that an argument or a framework that was sort of stayed away from?

Gunterman: What do you mean by a minority issue?

Sharp: That the majority of the people on death row, I think, may be black. The majority of the people involved in farm work are, perhaps, Hispanic or Mexican American. Many of the people, children, involved in the possibility of a free lunch program may be some minorities as well. I wonder about the fact that you would be advocating for minority groups, if that was something you used in your persuading.

Gunterman: In the death penalty situation, that was always part of the statistical picture. Then that, of course, became part of the argument as to whether this statistical picture represents discrimination, bias, or really represents other factors. But anyway, it was always something good to point out, because I think it implants a certain amount of guilt that we're doing this to the minorities.

Gunterman: On the other issues--of course, the fair housing thing is definitely a minority issue, there's no question about that. Equal employment was a minority issue.

I never looked upon the farm worker issues as a minority issue, primarily, I guess, because when I was down there in Farmersville in that period, there were hardly any Hispanics around. Farm workers were "Okies" and "Arkies" in those days. It was just a kind of a historical chance that by the time I got to Sacramento the farm worker group is no longer "Okie" and "Arkie," it is Hispanic. And what group will be making up farm workers twenty years from now we don't know.

It's a fair deal issue, an equal rights issue in a broader sense, that everybody ought to have a decent chance. Certainly farm workers should not be treated as some kind of second-class citizens who didn't have the rights that applied to other workers. So the first issues we worked on, the first farm labor issues we worked on, were disability insurance for farm labor, workers' compensation, unemployment insurance, and the minimum wage.

Sharp: Basic labor issues.

Gunterman: Yes. The FCL worked only in a limited way on collective bargaining issues. Mostly it was to oppose efforts to put farm labor under the NLRB [National Labor Relations Board]. Because we had enough experience with the NLRB in its operations with other migrant groups, groups and industries where there is a great turnover, such as the lumber and sawmill workers, and so forth--

Sharp: Seasonal.

Gunterman: Seasonal workers--to see that the NLRB setup is not a good setup for that group. It may be a fine setup for factory workers, but not for seasonal workers. So the first big push was for a minimum wage for farm workers. The minimum wage battle was not simply a legislative battle. That was somewhat an administrative battle, because you did have the [state] Industrial Welfare Commission, which establishes work orders in different industries. They had established work orders in just about every industry you could think of--except farm labor. These work orders lay out the working conditions, rest periods, wages, so forth.

Sharp: Sanitary facilities and things.

Gunterman: Yes. So we were working both to try to get the Industrial Welfare Commission to put out a work order on farm labor, and to get the legislature to pass certain bills.

Sharp: Vern [Vernon L.] Sturgeon was telling me about some of the efforts within the assembly and the senate to have hearings and to go out into the community essentially and to find out what the farm labor situation was truly, at least the best estimates that they could make by going out and having people talk to them.* I'm wondering if you might have been a part of any of those hearings or something that formal.

Gunterman: No. I did attend hearings of the Industrial Welfare Commission. I do not remember attending any hearings out in the field by the legislature. Of course, Vern Sturgeon was not supportive of us.** I talked to him at different times on different issues, and we simply disagreed.

It's amazing when you look back on it, because we had a bill in for toilets in the field and drinking water. The flack we got on that--it was terrible. It's amazing that people would object to something like that. I went in to one of the farm area legislators to discuss the toilets in the field bill with him, and you won't believe it [laughs] but this is what he said: "Well, so they go to the toilet out there in the lettuce." He said, "After all, when a woman buys a head of lettuce in the store, she comes home, she tears those outer leaves off anyway and throws them away." [laughs] I wouldn't say that was typical. Obviously that kind of an anecdote represents an extreme more than what is typical.

Sharp: But it does show some of the opposition and misunderstanding of what is needed in terms of people's health needs and comfort and everything else.

[During his review of the transcript, Mr. Gunterman added the following comment.]

Gunterman: To go back to what you said, that Sturgeon told about holding hearings, about going to the community to find out what the farm labor situation really was. Well, after we got disability insurance coverage for farm workers through in 1961, the state began to collect an important chunk of that information. Workers pay the disability insurance premium; the farmer deducted it from

*See Vernon L. Sturgeon, "State Senator, Reagan Advisor, and PUC Commissioner, 1960-1974," an oral history conducted in 1982 by Sarah Sharp, in Legislative Issue Management and Advocacy, 1961-1974, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1983.

**For a different view of this issue, see Sturgeon's interview, especially pp. 8-9.

Gunterman: the paycheck and sent it in, along with a record of hours worked and amount earned. So automatically the state got information on how many farm workers were working and where and for how long and how much they were earning. That's pretty basic information when you're talking about unemployment insurance coverage or a minimum wage, and the legislature hadn't had it before.

[Transcript resumes.]

Just for the record, I should say that when we were working on these farm labor issues right at the beginning, '61-2-3, we were working very strongly with the Community Service Organization [CSO], which was a Hispanic American organization. The lobbyist for the CSO was Dolores Huerta. The president of the CSO was Cesar Chavez. So in the legislature, working on the unemployment insurance bill, for instance, Dolores and I were just working together day after day really terribly hard on that kind of thing. Occasionally Cesar would come in. Of course, Cesar would bring in some farm workers.

You know, the United Farm Workers didn't exist then. It was only after that experience that Cesar decided he was going to chuck the CSO and go out and organize the farm workers.

Sharp: I didn't know that they had been together before, I guess, either. I was thinking that she began to work with him only as part of the United Farm Workers organization.

Gunterman: No, they had been together in the CSO. What happened on unemployment insurance is that Dolores and I were working it together. We got it through the assembly, and it died in the Senate Committee on Insurance and Financial Institutions, which is amazing progress to have made at that time.

[During his review of the transcript, Mr. Gunterman added a comment about the Senate Insurance and Financial Institutions Committee.]

We got a hearing before Insurance and Financial Institutions, but we didn't get a vote in public. By that time we had made the issue too hot a one for our opponents on the committee to want a public vote. So the committee chairman, Senator Richard Dolwig, a Republican from Redwood City, after the hearing went around and got the votes one by one. All we were told officially was the final score, which was one "yes," three "noes" and five not voting. That was in the days before committee votes had to be recorded and made available to the public.

[Transcript resumes.]

Gunterman: Then that was kind of the high water for us for a number of years to come. Dolores went off to organize. She was no longer in the legislature. I carried on for the farm workers for the FCL. Again, just keep plugging at it year after year after year, and eventually you reach the point where you get it through the legislature. And by that time the governor has changed. So you go through year after year after year when the thing goes automatically through the legislature, but automatically the governor (Governor Reagan) vetoes it. Then the governor changes again, you get it through, and it's one of the first things the new governor (Governor Jerry Brown) does, is sign it. [laughs]

Sharp: And it's been there really a long time.

Gunterman: Yes, it's been there a long time.

Sharp: Now, you're working with a Democratic majority in the legislature for most of the period when Mr. Reagan was governor, at least the last part of the period, so you're working busily on these sorts of issues—were there certain legislators to whom you generally went depending on the kind of legislation you were interested in?

Gunterman: Yes. Alan Sieroty was always the faithful workhorse on prison issues, including the death penalty. He wasn't the only one, but really he carried that very strongly. Senator [George R.] Moscone was a good friend of ours. We worked a lot with Moscone, primarily on the child nutrition thing. It was Moscone's bill that was the first one to establish state support for free or low price meals for low income kids.

Senator [Nicholas C.] Petris has always been a good friend to the FCL on all kinds of issues. Just this year he authored a bill which would have renewed a program which the FCL put in seven or eight years ago and which was scheduled to die this year. Unfortunately Petris wasn't able to get it through.

By not remembering some others I may be doing an injustice to some people. It's like sending Christmas cards—you're afraid you'll forget something. [laughs]

[During his review of the transcript, Mr. Gunterman added several names of legislators who supported FCL issues.]

Among the authors of capital punishment bills, in addition to those already mentioned, were Senator Fred Farr (D., Carmel) and Assemblymen George Brown, Jr. (D., Monterey Park), John O'Connell (D., SF), John Knox (D., Richmond), and John Burton (D., SF). That's in the Pat Brown and Ronald Reagan years. Beyond that, it would be a long story to tell about the legislators, Democrats and Republicans, with whom we worked closely on one issue or another at one time or another.

[Transcript resumes.]

Sharp: That's right.

I'm wondering if we could close with perhaps some sort of summary of some of the gains that you might have made in the farm labor, fair housing, and fair employment areas during the period that Mr. Reagan was governor.

Gunterman: During the period that Reagan was in.

Sharp: I'd like to sort of bring us back to end with that period, if your mind works that way.

Gunterman: The school lunch thing went through at that time. It was not just Moscone who carried the bill, but also a Republican assemblyman, Gordon Duffy. We had good relations with him.

I think it was during Reagan's years that the campus disturbances were going on.

Sharp: Yes, '67-'69-'70, that period.

Gunterman: Yes. That is a story by itself. There was a Republican assemblyman by the name of John Stull who was very important in seeing that the legislature came out of that thing without disgracing itself. [laughs] In other words, handling the whole problem with some sense of concern for the facts and a sense for what was right.

Sharp: How did that concern express itself? What was Senator Stull doing?

Gunterman: He was at that time an assemblyman. The campus disturbances were taking place, and the legislature came back--1969 was the year--all full of, "What are we going to do to clamp down on the students and the faculty?" They were really going to clamp down on those people. There was something like--I forget the number, but at least 150 bills in that had something to do with clamping down on the campus issue.

Sharp: I know some of them had to do with how long a student had to wait to come back to campus after he or she had been ejected for doing something, that sort of bill.

Gunterman: That's right, that kind of bill. What happened was that the students started coming in. As a matter of fact, Laura Magnani, who later was a lobbyist for the FCL, and a friend of hers, Steve Rood, as I remember it, were the first ones to come, from UC Berkeley. They wanted to know what could they do about these bills before the legislature. I told them go over there and tell them, tell them what was going on, how it was from the student viewpoint. I gave them a push and shove in the right direction, and they went off, and they were the first ones really to go from legislator to

Gunterman: legislator to legislator, including Stull. Later, other students came in, from Berkeley and other colleges, and the students had quite a lobbying operation going on at one time. But it was primarily that, getting in to see all the legislators and to sit down with them and explain what the whole fuss was all about.

Jesse Unruh was assembly speaker at the time. The speaker appointed a subcommittee to look into the campus disturbance issues, and all these campus disturbance bills were referred to that one subcommittee. Stull was the head of that subcommittee. Stull and this committee looked over the whole mess and came out with two bills, which were reasonable bills. They did a few things, but what they did was enable the legislature to say, "Yes, we've done something about the campuses," and yet to keep from going off the deep end with penalties for this and that.

Sharp: That's an interesting anecdote on Mr. Stull. I hadn't really seen him in that sort of moderate--

Gunterman: He's a very conservative person, but he's a gentleman and he will listen.

Sharp: Are there other areas of the fair housing, unemployment, and farm labor topics that we should cover for this '60 through '70 period?

Gunterman: The other big issue for the FCL in those years up to '75 centered around the prisons. It was during that period that [Alan] Sieroty got through his what you might call "prisoners' rights" legislation. Up to that time the old civil death concept governed, under which once a person was convicted he lost his civil rights, and he couldn't represent himself in court; he couldn't pursue any legal action. In prison he couldn't read anything that the warden didn't want him to read. He couldn't get mail without censorship, and all that kind of thing. Absolutely the prisoners had no rights. And Sieroty through one bill (AB 581, 1968 session), which the FCL sponsored--that means it came from us--established for the first time the right to read and the right to correspond. Then later, he put in a broader version of it that covered other rights. That came within the Reagan administration.

Sharp: Maybe I'll ask Jan Marinissen more about that. He was with the American Friends Service Committee at that time, I believe.

Gunterman: He was there. In those days he was not lobbying as much as he does now. Now he comes in at least once a month, or perhaps more often, and he deals with the administrative agencies. Even though most of his time is spent in the Bay Area.

Gunterman: We worked together all the time. The Criminal Justice Committee of the AFSC would have certain concerns about what was going on, and Jan would bring them to us to figure out what could be done about it. Or, if we got an idea for legislation, we'd go to Jan and test it out. For a while also the Prisoners' Union was lobbying.

Sharp: I'd seen Mr. Marinissen's name I guess directly connected with prisoners' rights and reform of prison conditions—

Gunterman: By now he's been in it longer than anybody else.

Sharp: Yes. I think that's why he hasn't answered my letter, is that he's busy in the thick of it and doesn't have the time.

Gunterman: [laughs] Yes, that's probably true.

Sharp: I think that's really all of my questions. I see you made some notes, and I don't know if they're things that we covered or we didn't cover.

Gunterman: I spent the morning going through the FCL newsletters, trying to refresh my memory. But my memory doesn't refresh very easily. It did give me a little bit of a better idea of what the other issues were that were going on at the same time. The capital punishment issue, in terms of our efforts, had to relate to what else was going on.

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The Rumford Act, as I remember it, it was in '63. That in itself was a big battle, the climax of the realtors' effort to get it repealed through the initiative process [in 1964] and their success in getting that through. Then came the court battle over the constitutionality, which the realtors lost, so the proposition was thrown out the window. All of this takes time, of course.

By the time we got into the Reagan administration, there were efforts to repeal the Rumford Act or to mess up the Unruh Act. In both situations, the realtors and their allies failed, and that kind of ended that battle, I think.

Of course, the equal rights battle goes on and on and on, but I think what we think of as the Rumford Act battle ended with that. That was during the Reagan administration.

During the Reagan administration you had the Watts riots and the impact that that had on the legislature.

Sharp: It was actually before--the tail end of Mr. Brown's--

Gunterman: Was it?

Sharp: Yes. In fact it was sort of a campaign issue, the way Governor Brown [Edmund G., Sr.] was or was not handling it.

Gunterman: I didn't remember that. I thought it came a little later than that.

Sharp: No, it's right there in the year right before the election [11-16 August 1965]. But the aftermath was dealt with for quite a while.

III THE ECONOMICS OF CONVERSION; PEACE WORK, THE FCL, AND THE FCNL

Gunterman: I noticed that also during these years the Vietnam situation was getting worse and worse. Directly that doesn't affect the legislature, but indirectly it certainly does, in terms of the mood, the way people feel about things.

We were working for a number of years, both before Reagan and during Reagan, on what we call the economics of conversion. California depends very heavily on federal contracts, military contracts, for its economic health. Twenty-four percent of federal prime military contracts were going to California. A very, very heavy percentage--about 33 percent of all manufacturing jobs--depended on those.

Our question was, what does that do to California's attitude on issues of peace and war? And also, what would happen to California if peace broke out? [laughs] If federal contracts ended for international reasons or simply for political reasons, because you get a different administration. There was a time--it may have been when there was a wholesale shift from propeller planes to jet planes--when California was really seriously hit. San Diego had had a thriving airplane industry, and it was just wiped out.

Sharp: After World War II?

Gunterman: Yes. This was long after the war. There were other clouds on the horizon to make people nervous about what might happen if the contracts either ended because a different type of product was needed, or because Washington wanted to build its support someplace else.

So for a couple of years the FCL and the AFSC sponsored talks out at the San Francisco airport. Executives from different companies would come in and discuss what--these were from companies that produced war materials--what would they go into if they didn't have those contracts.

Sharp: Converting over to peace work.

Gunterman: Converting over, yes. I think that those talks had a certain amount of value, but not as much as we'd hoped. Because anybody who has a good idea as to where to make the switch, switching from airplanes to a new style bathtub or something, isn't going to tell the competition about it, so there was always kind of a limit how far people would go in discussing this.

Sharp: When were these discussions going on?

Gunterman: In the early '60s.

Sharp: I'm trying to connect it with the decision to have a lot of the space shuttle industry work come to California. I guess many people see the whole space shuttle effort as somewhat military in nature. I'm thinking that it was in the early '70s or late '60s that people were really trying to push to get the space shuttle effort to come to California. I didn't know if that was to try to rev up the airplane industry or what part it all played.

Gunterman: I think you'd probably have to study what was going on in Washington at the time.

Sharp: I guess so. I know, just from reading the newsletters, that the peace issue for the FCL is becoming increasingly important with the nuclear threat. I noticed reading the FCL newsletter that the concern about nuclear war in terms of formal concern in the FCL went back a lot further than I thought it did. Certainly when Mr. Reagan was in office in Sacramento that was a strong concern.

Gunterman: There is the Friends Committee on National Legislation that has always worked heavily on international issues. We used to have a number of people of the FCL type, particularly among the Quakers, whose strongest interest was in the international issues and felt that the FCL isn't working on peace. My position was that peace starts in the hearts of people, that as long as you have injustices going on, you're going to have those injustices break out into international conflicts. So if you're working on trying to create a decent society here in California, you're working on peace issues. I think the present pope said it much better. He said, "If you want peace, work for justice." That says the whole thing in one sentence.

Sharp: Yes, that's really a very powerful feeling, because it is so basic and because everybody can be involved. It's something everybody can work on.

Gunterman: The negative to it is that I think it's a kind of an escape issue, that if I can work on an international question, I don't have to face what I'm part of here at home.

The other way, of course, is that if you start throwing nuclear bombs around, then everything's done for and there's nothing left, in terms of what we know today.

And now, as things are getting worse and worse and the administration becomes more and more set and more and more confrontational, I feel, okay, people, you better get out there and stop nuclear bombs.

Sharp: But that, not tension, but two sides that people within the FCL have--some people have wanted to go more toward state and local issues, injustices; some people have wanted to go more toward international issues--.

Gunterman: That's right. By and large, the people who wanted to work on state issues, the people who came in and shared the viewpoint that I have just expressed, have dominated the FCL.

There have been protests now and then from what's really a minority that say, "Look, we ought to be paying more attention to the international issues."

I felt we should have more of a working relationship with the Friends Committee on National Legislation on that kind of thing. Well, for that matter, domestic issues locally are tied in with domestic issues nationally. But certainly the international thing--we have taken guidance from FCNL throughout the years in kind of an informal way.

Sharp: Yes, that's what I expected. I think that's really all my questions. I've kept you longer than I thought I would.

##

TAPE GUIDE -- Joseph F. Gunterman

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MAY 4, 1967

CALIFORNIA

FCL

ACTION

FROM THE
FRIENDS
COMMITTEE ON
LEGISLATION

ACTION NEEDED NOW !

*

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TWO CAPITAL PUNISHMENT DATES.

MAY 9th

Daniel Allen Roberts is scheduled to die in the San Quentin gas chamber at the end of a 20 day stay granted by Governor Reagan to give time for filing a new appeal. If the execution is carried out, Roberts will be the second Death Row inmate to die this year. Like Aaron Mitchell, the first, he is a Negro. Sixty other men wait on the Row for their turn to die.

MAY 16th

The Assembly Committee on Criminal Procedure will hold a hearing on two bills against the death penalty, AB 606 (Burton, D., SF) and AB 607 (McMillan, D., LA).

AB 606 would establish a four-year moratorium on capital punishment with five exceptions. Still subject to the death penalty would be a person who:

1. murders a police officer
2. commits a murder while in jail or prison
3. has been convicted of a first degree murder and commits another first degree murder
4. has murdered two or more victims
5. murders during a kidnap

AB 607 would abolish capital punishment. Both bills would substitute life imprisonment without possibility of parole for the death sentence.

The Criminal Procedure Committee is divided 5 - 5 on the subject of capital punishment. Six votes will be needed to get a bill out with a "do pass" recommendation.

Although the chances for committee approval of permanent abolition of the death penalty are slight, the following factors may lead the committee to approve a moratorium:

- Four of the eight men now with death dates are Negroes, two are Mexican-American
- Between 25 and 35 men may enter the gas chamber during the remainder of the year unless the Governor or the legislature acts
- The American Civil Liberties Union is challenging the constitutionality of the death penalty in the courts. In Florida a federal judge has ordered an indefinite stay of execution for 50 prisoners pending consideration of constitutional arguments.
- Recent public statements by Governor Reagan and Lt. Gov. Finch have indicated that the administration would favor some narrowing of California's death penalty statutes.

[more]

What You Can Do

1.

Expressions of support for abolition should go to the Governor and committee members without let-up. Members of the Criminal Procedures committee are:

Craig Biddle, chmn.	R	Riverside	74th
John J. Miller, vice-chmn.	D	Berkeley	17th
Robert W. Crown	D	Alameda	14th
Walter J. Karabian	D	Monterey Pk	45th
William M. Ketchum	R	Paso Robles	29th
John T. Knox	D	Richmond	11th
Carlos J. Moorhead	R	Glendale	43rd
Frank Murphy, Jr.	R	Santa Cruz	31st
Alan Sieroty	D	Beverly Hills	59th
Floyd L. Wakefield	R	South Gate	52nd

Letters to the Governor should be addressed to Governor Reagan, State Capitol, Sacramento, Calif. 95814.

Letters to committee members should be addressed to Assemblyman _____, State Capitol, Sacramento, Calif. 95814.

2.

Greatly needed are public expressions of support through letters to the editor, editorials, sermons, debates, resolutions, the building of new local anti-capital punishment groups, and through vigils and tolling of church bells if another execution takes place.

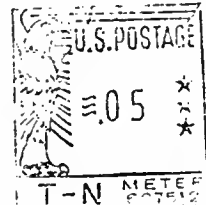
Capital punishment must be reawakened as a moral issue in the public mind!

3.

On May 16 the hearing room and capitol corridors should be crowded with people expressing their deep hope for favorable committee action. This is very important in impressing on the legislature that the abolition of the death penalty really means something to our citizens.

Your nearest FCL office will be glad to help you in your efforts on this issue. Time is short!

Friends Committee on Legislation
Sacramento: 11th & L Building, Suite 203
916-442-1036
San Francisco: 2160 Lake St
415-752-7887
Pasadena: 984 No. Fair Oaks
213-681-5161



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ABOLISH CAPITAL PUNISHMENT!

ACTION NEEDED NOW!

January 13, 1968

John Urey
460 Midvale Avenue
Los Angeles, California 90024

Dear John Urey:

The question of the FCL's effectiveness in lobbying is one that is very hard for me to answer. Perhaps I should say that it would be very easy to answer, because it is easy to take the passage or defeat of certain measures and say, "Look what we did!", when as a matter of fact, the bills passed or died for reasons that had nothing to do with our lobbying.

What is hard is for me, as a legislative advocate, to be honest with myself and with others, admitting that in most instances I really don't know how much good I may, or may not, have accomplished. There are so many forces at play in the legislative process, including sheer accident, and evaluations of why things went as they did are so subjective, that I am hesitant about taking either praise or blame for what happens.

The justifiable homicide issue is one of the few of which we can say with assurance that "We brought this subject before the legislature." Even here, we can't be sure that someone else wouldn't have brought it up later in the session or in the next year if we hadn't. The question of the value of heavy penalties as a deterrent to crime, which the Assembly Committee on Criminal Procedure is now studying, is one that we raised repeatedly over the years. I don't know whether our persistence persuaded the legislators that our argument was worth examining or whether the snowballing of the drug problem, despite heavy penalties, did the job.

John Urey
January 18, 1968
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Traditionally the abolition of capital punishment has been "our" issue, but we can't say that we have been particularly effective there, if we are looking for measurable effectiveness. The death penalty is still with us. It is likely to die in the courts before it dies in the statutes.

I might claim that we killed all the bills that would have extended the death penalty, but that would be true only to the extent that, by making the death penalty a legislative issue, we instilled caution in the legislators. I prefer to think that the bad capital punishment bills died because most of the legislators really aren't that bad.

We were the ones who made an issue of the cuts in the Department of Corrections rehabilitation budgets last year. Everyone else had his attention on Mental Hygiene. It is true that we were not "effective" -- that is, the rehabilitation cuts were not restored -- but I don't think our effort was ineffective in the long run. Many more people became aware of the prison education, training and counselling problems, and I feel that in the long run this awareness will "pay off" legislatively.

We have done a good job, an essential job, on fair housing legislation during the interim, in preparation for the coming session. We were part of a team, but we contributed something no one else had: legislative experience. If during the coming session we come out well on housing, we may be able to brag that "We did it, in part". If we fare badly -- well, what then?

We have played a key role in an effort over the years to get unemployment insurance for farm workers. Farm workers still don't have unemployment insurance coverage. It might be argued that all of us who worked for u.i. for ag labor might just as well have stayed home, but I don't think so. Success in some future, post-Reagan year will have been built on what we, among others, contributed.

John Urey
January 13, 1968
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It might be said that we killed the Civil Defense and fall-out shelter bills a few years ago, because we were the only organization opposing this phase of the war program. The bills died. On the other hand, we have been the only organization pushing for "economics of conversion" efforts on the part of the state, and we have gotten nowhere. There was a brief flurry of interest in conversion to a civilian-oriented economy among the politicians when military change-overs and cutbacks created unemployment in their districts, but those days are over for awhile.

Sometimes I am surprised to find out how much the FCL has meant on some issue. Just the other day I read a political science student's term paper on the "Ombudsman." I had forgotten how much a role the FCL played in the work on legislation for a California ombudsman prior to Unruh's introduction of his first bill. This year Senator Dymally has introduced an "Ombudsman" bill; I assume that Unruh will introduce his again.

Recently I got a call from an ad hoc committee working on better education for Indian children, an effort which is supported by the State Advisory Commission on Indian Affairs. That call reminded me that the FCL in 1961 was the only Sacramento lobby working for creation of the State Advisory Commission. Now that new activity is stirring in the Commission and elsewhere, FCL has been called upon again for help in lobbying for legislation for Indians.

So far this session I have worked mostly on fair housing bills and possible bills in the area of penal affairs. The work on fair housing is relatively simple: a group of equal rights workers has decided on four bills it wants introduced and has given me the job of seeing that they are introduced. Assemblyman Brathwaite has agreed to author one of the four; that is my score so far. The penal affairs legislation is much more difficult, because many basic changes are needed. We want to put in bills that will be meaningful and defensible. In another two or three weeks I should have something more to report on this.

John Urey
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I wish there were some way of conveying to people the amount of work that the FCL does that helps good legislation but does not show on the scorecards. Legislators ask us for material on issues, to help them answer inquiries from constituents. (I have written letters to constituents for legislators.) Legislators ask us for such material for press releases or testimony before committees. (I have written press releases and rough drafts of testimony.)

Legislators ask us for information relating to bills. If we don't have it, we try to get it. Legislators ask us for comment on specific provisions of bills they are planning to introduce. They ask us for advice on whom to bring to hearings, they ask us to talk to colleagues whose votes they need, they ask us to drum up support for bills in certain districts. Sometimes a legislator counts on us to alert him to bills that are particularly good or particularly bad, because there are 5,000 or more measures and who can study and watch them all? Of course, we are not alone in getting such requests; this is part of the lobbying-legislative process.

We do our share in trying to get citizens to participate in the process. I am sure that we do as much as anyone, if not more, in helping individuals and groups to get started in such participation. To me this is a very important part of our work and a part which cannot be separated from lobbying. By that I mean that we would not be as effective in helping people if we were not active and on-the-scene and that also this citizen participation builds some support for us on our issues.

This is a long answer, and after you have read it you may decide that it is a long no-answer. However, as I said at the beginning, the question is not a simple one to which to reply. We suffer from certain handicaps, besides financial ones. Since we represent the Quaker viewpoint, our arguments are sometimes discounted in advance as simply an expression of religious

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idealism. In such cases, I have a job getting people really to listen to what I am saying. Also, we sometimes are expected to be "far out" or radical, which results in further discounting. Finally, we have no weapons with which to threaten. However, I believe that we have our own peculiar function here, or I wouldn't stay here.

Best wishes,

Joe Gunterman
Legislative Advocate

JG/sv

cc: Dick Jay
Ken Morgan
FCL San Francisco
FCL Pasadena

P.S. You asked me about our work with Southern California legislators particularly. We work with quite a number of them on different issues. Among the Southern Californians who are most likely to know about us and what we are doing are: Senators, Stiern, Bailenson, Song, Dymally and Assemblymen Shoemaker, Elliott, Moretti, Bill Greene, Ralph, Warren, Sieroty, McMillan, Brathwaite and Biddle. If you need more on this, let me know.

THE OFFENDER

DEATH PENALTY

"The swing away from executions is strong throughout the world, including the United States. On January 23 the court-created 'moratorium' on executions in California passed the four-year mark — and murderers have not run rampant. Ahead of us, with over 20 men on death row who appear to have reached the end of all appeals . . . lies the possibility of a series of executions amounting virtually to mass murder.

"Under these circumstances public and government opinion may swing rapidly towards putting a halt to executions. No one can predict what the political climate on this subject may be three months from now . . ."

With these words in February the FCL prefaced its appeal to those opposed to capital punishment to build maximum support for legislation for the abolition of capital punishment, then still to be introduced. The bills were introduced, but the widespread support which existed for them throughout the state never mobilized effectively.

It may be argued that the bills never had a chance, under any circumstances. In the Assembly the committee before which almost certainly any capital punishment bill would be heard, the Committee on Criminal Procedure, was divided 5-5 on the death penalty, and it would take six votes to get a bill out. In the Senate, the committee most logically to be assigned death penalty bills was Judiciary. On it a majority of "do pass" votes for an abolition or moratorium bill could not be found.

AFTER FOUR YEARS

But the situation in regard to capital punishment was unique. For the first time, California had gone for four years without an execution. In the entire United States, there had been only one execution the year before, only seven the year before that. In San Quentin, the number on Death Row fluctuated around 60 — a record total of condemned for any one state.

It seemed unlikely that, for political reasons if for no other, the new Administration would want to see a series of executions take place which would darken the image of the state and its new government before the world. The FCL hoped for, at the least, some kind of move to stave off the expected flood of executions.

This hope was realized, but not through the legislature or the Governor.

On February 17, Assemblyman Lester McMillan (D., LA), veteran author of anti-death penalty bills, introduced AB 607, a straight abolition bill. Assemblyman John Burton (D., SF) introduced AB 606 for a four year moratorium, with five classes of murders excepted. Three days later, on Feb. 20, Senator George Moscone (D., SF), a freshman legislator, introduced SB 403, the first bill for the abolition of the death penalty to be introduced in the State Senate since the 1960 special session — the "Caryl Chessman session."

The three authors conferred and agreed that there would be no action on AB 606 or AB 607 until the Senate, as the more difficult house, had acted on SB 403.

SB 403 GOES FIRST

The President Pro Tem of the Senate, Hugh Burns (D., Fresno), assigned SB 403 to the Senate Committee on Governmental Efficiency instead of to the Senate Committee on Judiciary, which normally receives bills having to do with crime and punishment. Burns is a strong supporter of the

*Friends Committee
Legislation*

death penalty. Not only is the margin of possible anti-death penalty votes narrower in Governmental Efficiency than in Judiciary, but even the chances for a full and fair hearing are narrower there. "Senate GE" frequently is undemocratic in its procedures, arbitrary in its decisions.

The chairman of Senate GE was Senator Eugene McAteer, an outspoken supporter of the death penalty. For a time there was a question as to whether SB 403 would receive more than perfunctory attention from the committee, but Senator Moscone, committed to abolition, worked hard and successfully to secure a full hearing on the measure.

In the meantime the execution of Aaron Mitchell, convicted of the 1963 robbery slaying of a Sacramento policeman, was set for April 12. By coincidence only, the Senate GE hearing on SB 403 was set for the same day.

The prospect of another execution at San Quentin after four years without a state killing brought the death penalty before the state again as an immediate and pressing issue. Opponents of capital punishment urged Governor Reagan to extend clemency — or at least a stay until the legislators could act upon the measures before it.

NO CLEMENCY

The Governor said that he felt he could not extend clemency in the absence of new legal matter that might be the grounds for further court action. He left Mitchell's clemency hearing to the clemency secretary, Edwin Meese III, a former legislative advocate for the peace officers' and district attorneys' associations who personally supports the death penalty and as legislative advocate had been the chief lobbyist against earlier abolition bills.

Mitchell went to the gas chamber as the hearing on Senator Moscone's bill to remove the chamber forever got underway. Downstairs, outside the Governor's office, members of a group that had held an all-night, candlelight vigil outside the Governor's home formed a silent picket line. Outside the gates of San Quentin prison, another group of all-night vigilers stood in silence as the 10 a.m. death time approached.

Witnesses for SB 403 were Gerald Marcus, San Francisco attorney and chairman of Californians Against Capital Punishment; Libby Gatov Smith, a member of the National Democratic Committee; Coleman Blease, legislative advocate for the American Civil Liberties Union of Southern California; Dr. Bernard Diamond, psychiatrist at the University of California Medical Center in San Francisco, and William Flynn, San Francisco bureau chief for Newsweek magazine. Once again the opposition to abolition of the death penalty was led by the District Attorneys' Association and the Peace Officers' Association, represented by their legislative advocate, Carl Anderson, and by Lawrence Drivon, district attorney of Stanislaus County.

At the conclusion of an hour and a half of testimony, Senator Teale (D., Railroad Flat) moved that SB 403 be given a "do pass" recommendation. His motion was seconded by Senator Short (D., Stockton) but died on a voice vote.

ASSEMBLY ACTION

McMillan's AB 607 was heard before the Assembly Committee on Criminal Procedure on May 16 in an evening session. Attendance was slim. Witnesses for the bill included Dean Joseph Lohman of the School of Criminology at the University of California at Berkeley; Gerald Gottlieb, Los Angeles attorney and author of a Center for the Study of Democratic Institutions paper on capital punishment; George

T. Davis, San Francisco criminal attorney; the Reverend Robert Moon, St. Marks Methodist Church, Sacramento, speaking for the Council of Churches; the Reverend William Gilbert, St. Paul's Episcopal Church, Ventura; and Paul Halvonik, legislative advocate for the American Civil Liberties Union of Northern California.

The only voiced opposition came from committee members, especially from Assemblyman Frank Murphy Jr. (R., Santa Cruz). The district attorneys' and peace officers' representative was present but did not testify.

The vote was as had been predicted. Criminal Procedure is a ten-man committee, divided firmly and evenly on the death penalty issue. The division in this case was strictly on party lines, with all Democrats opposed to capital punishment and all Republicans supporting it.

It would take six votes to get AB 607 out. The tally on a motion to give the bill a "do pass" recommendation was: Yes — Miller, Sieroty, Karabian. (Knox and Crown, absent, had left word that they would have voted "yes.") No. — Biddle, Ketchum, Moorhead, Murphy, Wakefield.

It had been stipulated that testimony on the abolition bill would be considered testimony also on the moratorium measure. Assemblyman Burton had hoped that, despite the negative action on the two bills, there might be enough concern over the large number of impending executions to win the vote of a Republican for the moratorium and had worked for such a vote. However, when he presented his bill before Criminal Procedure on May 23, it too went down to defeat.

TO EXTEND PENALTY

The only measure directly on the death penalty to get a "do pass" recommendation from a legislative committee and to reach a house floor for a vote was a measure to extend the penalty to another crime.

SB 387 (Lagomarsino, R., Ventura) would have added to the crimes for which the death penalty may be given that of kidnapping for the purposes of rape (but not statutory rape), sodomy and sexual offenses against children. Since under California law virtually any movement of a crime victim from one spot to another constitutes kidnapping, the effect of SB 387 would have been to make most cases of forcible rape capital offenses.

The bill was amended in Senate Governmental Efficiency to limit the death penalty for kidnap rape to cases in which the victim was 16 years of age or less. In this form the bill went with a "do pass" recommendation to the Senate floor on June 7.

Lagomarsino, however, was unable to muster the necessary 21 votes for his measure and never brought it to a vote. SB 387 went to the inactive file of the Senate on July 21 and was still there when the session ended.

TURNED DOWN

As it has in previous sessions, the legislature permitted measures to die which would have changed alternate sentences for death penalty crimes (AB 291 and AB 292, both by MacDonald, D., Ojai) and would have placed capital punishment on the ballot (AB 1554, Conrad, R., Sherman Oaks, and AB 1270, Warren, D., LA).

IN THE COURTS

The most dramatic and hopeful development in the battle against capital punishment in California this year occurred outside of the legislative halls. A report of this development is included here because of the impact it may have on future work inside the legislature against capital punishment and because the FCL played a role in initiating this new approach to the abolition of the death penalty.

The case against capital punishment as a violation of constitutional rights came before the federal courts in California on June 27 when the NAACP Legal Defense and Educational Fund Inc. and a number of San Francisco attorneys filed suit to block execution of the 60 prisoners then on Death Row in San Quentin. The American Civil Liberties Union of Northern California later joined the suit.

Attorneys for the convicted men contended in their petition before Judge Peckham's court in San Francisco that the death penalty in California is unconstitutional for these reasons:

1—Defendants are denied effective counsel because there is no provision for appointment of counsel beyond the trial and initial appeal;

2—Juries in capital cases are stacked against the defendant because persons who conscientiously object to the death penalty are excluded;

3—Juries and judges are not instructed under California law as to what factors or standards to consider in their sentencing;

4—The death sentence is cruel and unusual punishment forbidden by the Constitution.

Using similar arguments, NAACP-LDF and ACLU attorneys in Florida had won a federal court order that pending executions of 51 men on Florida's Death Row must be held up until there could be a full hearing on the issues raised. Judge Peckham granted a temporary stay of all executions.

Attorney General Thomas C. Lynch appealed Judge Peckham's ruling. A three-judge appeals panel upheld Judge Peckham, who on August 10 heard further arguments on the case. At that hearing Deputy Attorney General Robert R. Granucci argued that the class action petition for habeas corpus — a petition for all men on Death Row as a group — should be rejected, that habeas corpus petitions could be brought only individually. He also argued that the petitioners had not exhausted all remedies in the state courts.

JUDGE PECKHAM RULES

In a decision on August 24, Judge Peckham turned down the petition for habeas corpus for all men on Death Row but ruled that individual cases involving common constitutional questions would be heard and would be consolidated. He set forth procedures to assure that all condemned men whose fate might depend on constitutional questions could bring their cases before the federal court.

As Judge Peckham's ruling assured that virtually all prisoners on Death Row could file individual petitions on constitutional questions and secure stays, it appears that there will be no executions in California for months and — as the battle almost inevitably will go to higher courts — possibly for years. This will have an effect on the type of capital punishment legislation introduced in the 1963 legislature and on the fate of such legislation.

AJR 31

As a matter of fact, already in the 1967 session one measure was introduced as a result of the NAACP-LDF and ACLU-NC suit. Assemblyman Alan G. Pattee (R., Salinas) on July 20 introduced AJR 31, which urged Congress to enact legislation to require that no relief be granted to stay the enforcement of any criminal judgment after its affirmation by the highest court of any state unless the application therefore is heard and determined by a panel of three judges, instead of one judge as in the NAACP-ACLU case.

The resolution passed the Assembly on Aug. 2 by a vote of 41 - 20 but died on the Senate floor after a debate centering on the capital punishment issue. The Senate tally was 13 "yes", 16 "no", with 21 votes needed for passage.

The NAACP proposal was amended into **AB 1978** (Miller, D., Berkeley), a bill to provide subsidies through POST for police community relations work. The amendments lowered the number of law enforcement members and public officials on POST. They added representatives of the state university and colleges and of the junior colleges, and also two "members of minority races with experience in the field of human relations."

AB 1978 was opposed by POST but was given a "do pass" recommendation by both the Assembly Committee on Government Organization and the Assembly Committee on Ways and Means. It passed the Assembly floor on July 25, 41 to 26. (See "Votes on Selected Issues")

The bill was scheduled the next day for a hearing before the Senate Committee on Government Efficiency. The Senate "graveyard committee", in its final meeting for the 1968 session, would be in a killing mood. Without time to lobby the committee members, Miller did not bring up his bill.

The only bill calling for increased police training in community relations that passed both houses was **AB 870** (Unruh, D., LA). Under the bill's "law enforcement leadership training program", experienced police officers were to be assigned for three months of duties relating to community relations in selected geographic areas. The trainees would study neighborhood problems, neighborhood characteristics and values, group social and political movement. They would do field work in problem areas. **AB 870** was vetoed by the Governor.

ARREST RECORDS

One of the early activities of the FCL in this session was to support a concept which would help not only ex-offenders who are trying to build new lives but also citizens who were arrested in error or were found not guilty.

More than a dozen bills having to do with the sealing of arrest records were introduced. Bills by Senators Tom Carrell (D., LA), Mervyn Dymally (D., LA), George Deukmejian (R., Long Beach) and Assemblymen David Negri (D., San Fernando), John Burton (D., SF) and Bill Greene (D., LA) dealt with wiping clean the slate for various groups: those arrested but not convicted, those convicted of a misdemeanor, those convicted of felonies, and those who at the time of the arrest were juveniles.

There are in present law, provisions for the sealing of the arrest records of juveniles. There are none for adults.

Some bills limited the questions employers could ask job applicants about arrest records. Others would have permitted the person, after his record had been sealed, to answer "no" if asked about his arrest or conviction.

The FCL was responsible for a strong presentation of the need for the sealing of arrest records when the Senate Judiciary Committee heard a number of bills on the subject on March 8. Ex-offenders and those working with ex-offenders on their job problems pointed out the difficulties faced by men with arrest or conviction records.

Two Almost Made It

Two bills on the sealing of arrest records passed, only to be vetoed by the Governor. One was **SB 41** (Dymally, D., LA), to require that a juvenile before his release be given a written statement of his right to get his arrest records sealed and of the procedure to be followed. Amended three times during its trip through the legislative machinery, it passed 26 to 4 in the Senate and 50 to 3 in the Assembly. (See "Votes on Selected Issues")

The second successful measure was **AB 1353** (B. Greene, D., LA). It provides for the sealing of arrest records, with the approval of the head of the local law enforcement agency, if the arrested person was released because of mistaken

identity or because the police concluded that he was not guilty. After the sealing the person is permitted to answer any question concerning the arrest as though it had not occurred.

The bill was introduced on April 2 but was not moved from the Assembly Committee on Criminal Procedure until July 17. It quickly made its way through the Ways and Means Committee and to the floor, where it passed on July 26, 46 - 6. In the Senate it by-passed the Judiciary Committee, where other arrest record bills had died, to get a "do pass" recommendation from the Committee on Government Efficiency. The Senate floor vote was 27-0.

The reason that the Governor gave for vetoing both bills was that the Senate Committee on Judiciary is planning a further study of the sealing of arrest records. He ignored the fact that **SB 41** was given a "do pass" recommendation by Senate Judiciary, as the sole bill not requiring further study.

TEAR GAS USE

Another area of police activity that was of concern to the FCL in the 1968 session was the use of both conventional tear gas and of the newer "Mace". Bills were before the legislature to expand the categories of persons allowed to own and use such gases at the same time that federal authorities and medical men were warning against possible serious health damage to those on whom these weapons were used.

Except for **AB 545** (Biddle, R., Riverside), all of the bills to permit reserve police officers, auxiliary sheriffs and others to use tear gas came to rest in the Assembly Committee on Criminal Procedure. The committee is planning an interim study of tear gas.

The Biddle bill will extend the authority to use tear gas, including "Mace", to officers of the California Highway Patrol and to state prison officials, including Youth Authority employees. The permission for prison officials was added when it was revealed that both the Department of Corrections and the Youth Authority have been using tear gas on inmates for years, even though unauthorized use is a felony.

AB 545 passed the Assembly on May 16, 61 to 6, and the Senate on July 25, 33 to 4. It was signed by the Governor.

THE DEATH PENALTY

The abolition of capital punishment is one of the FCL's oldest and highest legislative priorities, yet there was little it could do this year in that area. The issue was never joined.

Assemblyman Lester McMillan (D., LA), who carried the measures against the death penalty for 15 years or more, introduced **AB 1319**. The bill would have abolished the death penalty and substituted life imprisonment without possibility of parole.

Though the abolition of capital punishment is supported by increasing numbers of people, there was little public activity in support of **AB 1319**. Death penalty opponents were awaiting action by the courts, where the Legal Defense Fund of the National Assn. of Colored People and the American Civil Liberties Union of Northern California have challenged the constitutionality of capital punishment.

CAPITAL PUNISHMENT

Date of last execution: April 12, 1967

Number of men on Death Row, Aug. 15, 1968: 82

Executions scheduled: None

All executions stayed by the California Supreme Court pending consideration of the constitutionality of the death penalty and review of all cases by attorneys following the Witherspoon decision by the U.S. Supreme Court that potential jurors could not be excluded from trial juries in capital cases solely because of opposition to the death penalty.

The Assembly Committee on Criminal Procedure, to which AB 1319 was assigned, remained evenly divided, 5 to 5, on the issue. Also, shortly before the scheduled hearing on the bill, Senator Robert F. Kennedy was assassinated. This created a public mood in which discussion of abolition might backfire.

For these reasons, Assemblyman McMillan announced that he would drop the bill.

Court Challenge

The NAACP-LDF and ACLU-NC challenge is now before the California Supreme Court. Stays have been granted for all men on Death Row while the court considers the case.

On March 28 the California Supreme Court heard oral arguments. The judges showed interest especially in two of the LDF-ACLU arguments: 1—denial of due process and equal protection when indigent men on Death Row are not provided with court-appointed counsel to represent them in pursuing any legal remedies up to the time of their execution, and 2—imposition of the death penalty by juries that have no clear standards for choosing between the death sentence or life imprisonment.

Capital punishment was also challenged before the Court on the grounds that it is cruel and unusual punishment prohibited by the Constitution.

"Stacked Jury" Argument

The Court withheld consideration of a fourth argument, that juries in capital cases are weighted in favor of conviction by the exclusion of persons opposed to capital punishment, because a case involving that question was then before the U.S. Supreme Court in the Witherspoon case. The federal judges later held that death penalty opponents could be excluded from juries only when their scruples against the penalty would prevent their bringing in a verdict of guilty and they could not subordinate their scruples to the law.

After the Witherspoon decision, the California Supreme Court asked the NAACP-LDF and ACLU-NC, and counsel for all of the men on appeal, to submit briefs on the significance of the decision to their cases. Their briefs, and the opposing arguments of the Attorney-General, have been submitted.

The position of attorneys for the two challenging organizations is that the juries in all California death penalty cases have been weighted in the manner forbidden by the Witherspoon ruling.

Counsel For the Condemned

The FCL and ACLU sponsored SB 1028 (Petrus, D., Oakland), to provide court-appointed counsel for Death Row indigents at all stages in any legal proceedings related to the court's judgment of death. The issue presented by the bill, the FCL and ACLU argued, was not the death penalty issue but that of the right to counsel for all accused, rich or poor.

In the Senate Judiciary Committee Senator Clark Bradley (R., San Jose), proposed, and the author accepted, an amendment to provide counsel only for appeals to the California Supreme Court and the U.S. Supreme Court. In this form, the bill was given a "do pass" recommendation without audible opposition.

The silence when Bradley, as acting chairman, called for "no" votes and the bill's subsequent easy passage was a surprise to the author and proponents. It had seemed that a bill both costing money and helping murderers would have little chance in this session.

The Senate vote on July 18 was 28-2, with only Bradley and Senator H. L. Richardson (R., Pasadena) dissenting. SB 1028 passed the Assembly on July 31, 57-0. The Governor has signed the bill.



CAPITAL PUNISHMENT

California's death penalty statutes remained unchanged at the end of the 1969 session, despite efforts on the one hand to repeal them and on the other hand to extend them.

Assemblyman Alan Sieroty (D., Beverly Hills) introduced AB 15, to end the death penalty and to substitute life imprisonment with the possibility of parole. Assemblyman Henry Waxman (D., LA) introduced AB 377, for a four-year moratorium on the death penalty.

Both bills came before the Assembly Committee on Criminal Procedure for a hearing on March 26. The nine-man committee has only four members who are for abolition:

FOR — Robert W. Crown (D., Oakland), John J. Miller (D., Berkeley), John Vasconcellos (D., Campbell), Sieroty; **AGAINST** — Craig Biddle (R., Riverside), Carlos J. Moorhead (R., Glendale), Frank Murphy Jr. (R., Merced), Floyd L. Wakefield (R., Downey), Pete Wilson (R., San Diego).

Strange Reunion

Witnesses for the two bills included Clinton Duffy, former warden of San Quentin prison; John Albert Kerr, who spent two and a half years on Death Row and twice had dates for his execution while Duffy was warden; and the Rev. Byron Eshelman, Protestant chaplain at San Quentin. It was a reunion of a condemned man, his warden and his chaplain after almost twenty years.

Their testimony, plus the testimony of witnesses representing Negro, Jewish, student and civil liberties groups, made up one of the most impressive anti-capital punishment presentations in the Capitol in years.

The only witness against the bills was the legislative advocate for the Peace Officers' Assn. and the District Attorney's Assn. He argued that "We feel that the death penalty is a deterrent".

At the end of a two-hour session, both AB 15 and AB 377 were killed.

"Do Pass" For Death

One effort was made to extend the death penalty. SB 791 (Richardson, R., Arcadia) would have established a mandatory death penalty for anyone killing a policeman acting in performance of his duties, if the defendant knew the victim was a policeman.

SB 791 was given a "do pass" recommendation by the Senate Committee on Judiciary despite Senator Richardson's suggestion that the bill be held for an interim study. The FCL presented the only opposition testimony.

The Judiciary Committee split 7-5 on the "do pass" vote:

FOR—Clark L. Bradley (R., San Jose), William E. Coombs (R., Rialto), Donald L. Grunsky (R., Watsonville), John L. Harmer (R., Glendale), Robert J. Lagomarsino (R., Ventura), Lewis F. Sherman (R., Oakland) and Robert S. Stevens (R., LA); **AGAINST** — Anthony C. Beilenson (D., Beverly

Hills), Gordon Cologne (R., Indo), George E. Danielson (D., LA), George R. Moscone (D., SF), Alfred H. Song (D., Monterey Park).

The Senate floor vote on June 11 was 23-8.

Whose Life Is Sacred?

By the time SB 791 was scheduled for a hearing before the Assembly Committee on Criminal Procedure, Senator Richardson's enthusiasm for the bill had grown considerably, and so had the opposition. It now included the ACLU, the California Council of Churches, and the Public Defenders' Association. The bill was sharply debated.

Much of the opposition came from committee members. Assemblyman Miller questioned whether a policeman's life was more sacred than the life of any other citizen who might be murdered. Assemblyman Biddle doubted whether courts would convict under a statute which mandated the death penalty.

At the end of the debate, on a motion for a "do pass" recommendation by Assemblymen Wakefield and Moorhead, the chairman called for "aye" and "nay" votes. His call was greeted by silence. The bill was dead.

Senator Sherman introduced SB 1336, to provide for life imprisonment without possibility of parole as an alternative to life with possibility of parole or death, and SB 1337, to define "life imprisonment without possibility of parole" as preventing any parole, release or discharge except by the Governor. Both bills died in the Senate Judiciary Committee.

The Court Cases

The U.S. Supreme Court early in its new term, in mid-October or early November, is expected to schedule for re-argument the case of Maxwell vs. Bishop, an Arkansas capital punishment appeal based on the lack of standards to guide juries in their decisions as to whether to give the death penalty. It is anticipated that the Court will not act on other capital punishment cases before it until it has reached a decision in Maxwell vs. Bishop.

There are between 10-15 California cases now before the Court, most based on the argument that the exclusion of persons opposed to capital punishment from death penalty juries creates a biased jury.

OTHER PRISON AND PAROLE BILLS

Many other bills dealing with men and women in prison or on parole were introduced (see FCL NEWSLETTER for May, 1969) but none of them passed. Among the more important of these bills were:

AB 904 (Brown, D., SF) — to provide right to counsel and other protections to probationers and parolees in revocation procedures. Subject matter recommended for interim study by Assembly Criminal Procedure. AB 925 (Brown) — to remove the power of the Governor to revoke parole. Passed Assembly, May 12, 42-12. Passed Senate, June 30, 26-0. Vetoed by the Governor.

AB 940 (Brown) — as amended, to require the Adult Authority to fix time in prison by end of the twelfth month for all prisoners except those sentenced to life with possibility of parole and by the end of the thirtieth month for them. Passed Assembly, June 3, 51-15. Died in Senate Judiciary.

AB 1538 (Miller, D., Oakland) — to require that Corrections submit a recommendation to the Adult Authority concerning the granting of parole and that, if the recommendation is not followed, the Adult Authority must state its reasons in writing. Passed Assembly, July 21, 66-3. Died in Senate Judiciary.

AB 1685 (Vasconcellos, D., Campbell) — to require parole at end of minimum sentence for non-violent offenders or a written reason for denial of parole. To provide for distribution of reducing prison cost savings to cities and counties for parole services and law enforcement. Subject matter recommended for interim study by Assembly Criminal Procedure.

AB 1925 (Sieroty, D., Beverly Hills) — as amended, to limit the power of the Adult Authority to re-set sentences after it once has set them. Died on the Assembly floor, June 25, 24-35.

AB 1957 (Vasconcellos) — as amended, to authorize the state Human Relations Agency to contract with privately operated halfway houses for services for persons released from prison. Died in Assembly Ways and Means.

Referral of a bill "to interim study" often is simply a gentler way of killing it. The Criminal Procedure Committee, however, plans a study between the 1969 and 1970 sessions of procedures in relation to the suspension and revocation of probation and parole.

CAPITAL PUNISHMENT

Date of last execution: April 12, 1967

Number under sentence of death, Sept. 2, 1969: 77

Executions scheduled:

Sept. 24 — Gus Tolbert

Oct. 8 — Charles R. Coogler

Nov. 5 — Robert L. Nye

Executions Stayed:

Robert Douglas Hill (Aug. 6)

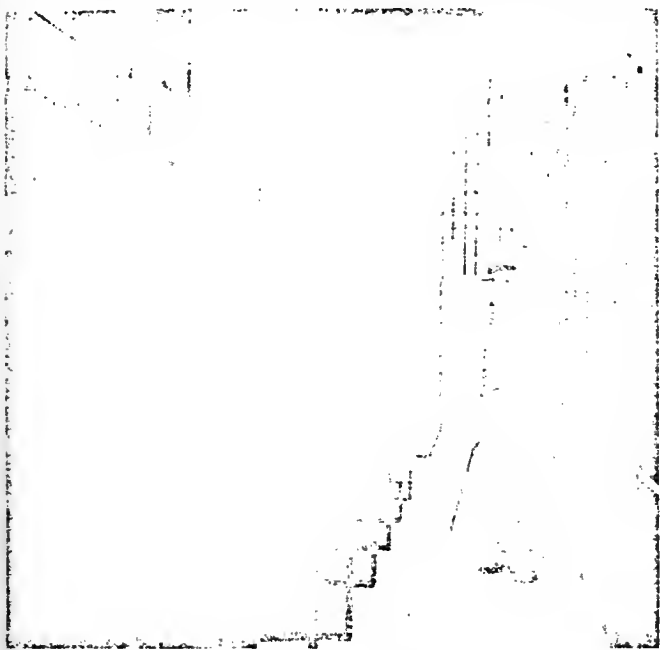
Stayed by Justice William O. Douglas, U.S. Supreme Court.

Tony M. Lara (Sept. 3)

Stayed by Justice William O. Douglas, U.S. Supreme Court.

Willie C. Miller (Oct. 8)

Stayed by Justice William O. Douglas, U.S. Supreme Court.



CHILDREN'S CENTERS

Two good bills on child care centers, one by a Republican and one by a Democrat, competed for legislative attention this year.

AB 1165 (Sieroty, D., Beverly Hills) was essentially the same as Sieroty's **AB 1930** of 1969, which, after hard work by its supporters, passed the legislature. It was vetoed by the Governor.

Children's centers, operated by local school districts or county superintendents of schools, help low income families in which both parents—or the sole parent—must work. A woman supporting her family, who has a safe and educationally stimulating place to leave her children during working hours, need not go on welfare.

AB 1165 codified and made permanent the present contract between the State Department of Education and the State Department of Social Welfare, under which Education operates child care centers with federal funds available to Social Welfare. The purpose of the codification was to obtain the maximum amount of federal funds. Passed the Assembly, 58-0. Passed the Senate, 26-1.

AB 750 (Lewis, R., San Bernardino), in addition, coordinated the existing programs of Children's Centers, day care and preschool education under the Office of Compensatory Education in the State Department of Education. It charged the Governor's Advisory Committee on Pre-school Educational Programs with the responsibility of planning, coordination and evaluation of the children's center, day care and preschool programs. It included provisions to facilitate local district administration of the programs. Passed the Assembly, 67-0. Passed the Senate, 25-2.

Both bills at first included provisions that any federal funds not spent would go into a Children's Center Construction Fund instead of the state's general fund. These provisions were amended out because of opposition from the State Department of Finance. This opposition lent credence to a report that the Governor vetoed Sieroty's 1969 bill because he wanted the unspent Children's Center funds for budget-balancing instead of for desperately-needed construction.

Neither bill, as amended, carried a state appropriation.

THE OFFENDER

CAPITAL PUNISHMENT

Capital punishment, ten years ago a major issue before the California legislature, this year created scarcely a ripple of interest. **AB 20** (Sieroty, D., Beverly Hills), to abolish the death penalty, received little citizen support and died, as expected, the first time it came before the legislators for a vote.

Testimony for **AB 20** before the Assembly Committee on Criminal Procedure came from men with personal experience in the process of premeditated killing by the state: Melvin Belli, famous San Francisco attorney; Dr. William Graves, former San Quentin Prison physician; and George Slaff, representing the American Civil Liberties Union of Southern California.

So little did the Peace Officers' Association and the District Attorneys' Association, chief supporters of the death penalty, think of capital punishment as an issue that they didn't bother to appear in opposition to **AB 20**. This brought angry comments from Assemblyman Craig Biddle (R., Riverside), who noted the careful presentations given by the proponents and suggested that "some year" he might vote for an abolition bill if law enforcement failed to present its case before the committee.

Death for Bombings

Biddle's outburst was the only solace for proponents of **AB 20** from the hearing. As expected, Assemblyman Robert Crown (D., Oakland), John Miller (D., Berkeley) and John Vasconcellos (D., Campbell), voted "yes" on Crown's "do pass" motion. "No" votes came from Biddle and from Frank Murphy, Jr. (R., Merced), the committee chairman. Two staunch supporters of the death penalty, Carlos Moorhead (R., Glendale) and Floyd Wakefield (R., Downey), were not present for the vote.

Biddle, who frequently has questioned the deterrent value of severe penalties, expressed his doubts to a California conference of the National Council on Crime and Delinquency. "There is, in general, a tendency on the part of both the government and the public to become more punitive in dealing with the criminal, and there is much evidence that this will not bring about the desired solution."

These thoughts, however, did not prevent him from authoring a bill to extend the death penalty. **AB 1003** provides heavier penalties for bombings, including life imprisonment or death for bombings in which any person is maimed or killed. Passed the Assembly, 59-3. Passed the Senate, 23-1. Signed by Governor.

Another bill dealing with the death penalty which merits mention was **AB 1995** (Murphy). As amended, it would permit the defendant in a capital case, with the consent of the prosecution, to waive the right to a jury trial and instead to have the case tried by a panel of three superior court judges. The three judges could not reach a verdict or impose sentence unless all three concurred. Passed the Assembly, 46-0. Passed the Senate, 35-0.

CAPITAL PUNISHMENT

Date of last execution: April 12, 1967

Number under sentence of death, Aug. 12, 1970: 86

Executions scheduled: None

Executions stayed:

Harold R. Terry (Aug. 12)

Stayed by Justice William O. Douglas, U.S. Supreme Court.

CAPITAL PUNISHMENT

One of the first bills before the legislature in 1971 was a bill to abolish the death penalty, AB 13 (Sieroty, D., Beverly Hills). The bill, with five of the nine members of the Criminal Justice Committee as co-authors, would have substituted life imprisonment with possibility of parole.

However, challenges to the constitutionality of capital punishment were before the federal courts. A hearing on AB 13 was postponed until June 22, after the U.S. Supreme Court had ruled on *McGautha v. California*. McGautha challenged the legality of giving juries unregulated power to sentence defendants convicted of capital crimes to life or death. The court rejected that challenge.

Chief witnesses for AB 13 at the June 22 hearing were Ramsey Clark, former U.S. Attorney General, and Anthony Amsterdam, a Stanford University law professor who heads the NAACP Legal Defense Fund's court attacks on the death penalty. Opponents were, as usual, the representatives of the Peace Officers' and District Attorneys' associations. The Criminal Justice Committee's "do pass" recommendation marked the first time since 1964 that a bill against the death penalty had gone to the floor of the Assembly.

Poling of the entire Assembly membership, and repeated efforts to secure the firm support of wavering Assemblymen, left uncertain whether the needed 41 votes for passage could be found on the floor. A violent outbreak in San Quentin prison created a negative mood in the legislature on prison issues. The U.S. Supreme Court announced that it would hear new capital punishment challenges during its 1971-72 term. For these reasons Assemblyman Sieroty decided that AB 13 should not be brought to a vote.

Sieroty has reintroduced his bill as AB 10 of the 1972 session. However, the history of 1971 is likely to repeat itself unless some as yet unforeseeable event creates an upsurge in public support for abolition. What is more likely to happen is that critical decisions on capital punishment will be made in 1972 in the courts.

In the Courts

Despite the fact that more than 650 condemned men and women, a record number, sat in death rows across the country at year's end, the close of 1971 marked the third full year of an unofficial moratorium on the use of the death penalty. The length of the moratorium has been due, in part, to judicial reluctance to execute anyone pending the outcome of constitutional challenges to capital punishment.

One such challenge was rejected by the U.S. Supreme Court on the same day, May 3, that it handed down the *McGautha v. California* decision. As with *McGautha*, *Cramp-ton v. Ohio*, which questioned the legality of determining both guilt and punishment in the same trial, was turned down, 6-3.

On June 28 the Court reversed the death sentences of 32 people when it reaffirmed two earlier decisions. The Court ruled, as it had in *Witherspoon v. Illinois* in 1968, that prospective jurors conscientiously opposed to the death penalty could not be excluded automatically from juries deciding capital cases. It also decided, as it had in *U.S. v. Jackson*, that a statute which imposes the death penalty only if a defendant refuses to waive his right to a jury trial places unconstitutional pressures upon a defendant's exercise of his Fifth and Sixth Amendment rights.

The most significant action taken by the Supreme Court during 1971, though, was its decision in late June to hear four cases challenging the death penalty itself on constitutional grounds. This is the first time the Court has agreed

to rule upon the contention that the death penalty is "cruel and unusual punishment" forbidden by the Eighth Amendment. Earlier the Court had considered only questions to procedures used in imposing the death penalty, as in some cases, attacks on particular methods of execution.

The hearing originally was scheduled for October 1971, but with the resignations of Justices Black and Harlan it was postponed. Argument is now scheduled for Jan. 17, 1972.

The Court can make one of three decisions: it can declare capital punishment unconstitutional; it can uphold the use of the death penalty; or it can find a lack of sufficient evidence in the four cases. Accordingly, anti-death penalty groups in California are making contingency plans for evidentiary hearings before a federal district court. These hearings will provide testimony from 30 or more expert witnesses on the brutalizing effect of the death penalty, not only on condemned men, but also on those who have to administer executions and on the society which tolerates such executions.

In Congress

The death penalty moratorium has been unofficial. Often stays of execution have been granted on a virtual day-by-day basis. Moreover, the stays granted have been for undetermined periods of time, pending a Supreme Court decision.

In an effort to guarantee that no one would suffer the "irreparable damage" of being executed before the Court hands down its decision, Senator Philip Hart (D., Michigan) and Representative Emanuel Celler (D., NY; chairman, House Judiciary Committee) have introduced legislation for an official two-year moratorium. The bill would give the states and the Congress a set amount of time to examine the issues surrounding capital punishment. It would relieve the courts of the task of granting individual stays to 650 people.

Other Congressional efforts to impose a moratorium on the death sentence have been led by Rep. Robert McClory (R., Ill.) and Rep. Don Edwards (D., Calif.). Rep. Celler and Rep. Andrew Jacobs (D., Ind.) introduced separate legislation to abolish the death penalty for federal crimes. Rep. Jacobs also sponsored HR 193, which would abolish the death penalty entirely.

A one word difference between the U.S. Constitution and the California State Constitution might give capital punishment opponents a better chance to abolish the death penalty on the state level rather than on the national level. While the Eighth Amendment to the U.S. Constitution prohibits "cruel and unusual" punishment, the state constitution forbids "cruel or unusual" punishment.

This subtle difference was crucial in arguments before the California Supreme Court which agreed to hear, on January 6, two cases directly challenging the death penalty's legality. Anthony Amsterdam, leading a battery of lawyers, argued that if the Court finds capital punishment to be either cruel or unusual, it must declare the death penalty to be a violation of the state constitution.

CAPITAL PUNISHMENT

Date of last execution: April 12, 1967.

Number under sentence of death, January 1, 1972: 104.

Executions scheduled: None.

OPEN GOVERNMENT

"Open government" issues have not pushed themselves to the forefront in recent legislative sessions. This year one such issue not only made a big splash; it also resulted in a considerable victory for the citizen's right to know what his legislators are doing.

The victory was in securing recorded committee votes. This removed lip-reading and guesswork as the citizen's only ways of finding out how their legislators voted in committee hearings, where the fates of most bills are sealed.

The victory can be credited primarily to the persistence of a group of citizens and to a first-term Senator with the courage to take the heat from legislators who felt that mumbling in unison was a perfectly good way of balloting on bills. The victory was helped also by the fact that it was an election year. It would be difficult for a legislator to face the voters in the fall with the admission that he had tried to keep them from finding out how he voted in committee.

The group of citizens were the "Birdwatchers," interested in protecting the environment and anxious to know which legislators were killing environmental bills by negative committee votes. For two years the "Birdwatchers" issued committee voting records based on their listening and lip-reading at committee meetings.

Legislators were not happy, especially those legislators who felt that their lips had been wrongly read. Eventually a number argued that "If our committee votes are going to be reported, we might as well report them ourselves and make sure they are reported right."

The Senator who dared to author a resolution, **SCR 4**, to require recorded committee votes was **Peter Behr** (R., San Rafael).

The concurrent resolution provided that voting on the disposition of bills by committees of each house would be by roll call vote only. A record of the vote would be printed in the Journal.

Behr's resolution was strongly opposed on the Assembly side. Assemblyman **John Burton** (D., SF), chairman of the Assembly Rules Committee, submitted his own recorded vote measure, **HR 16**. The conflict between the bills initiated a continuing and growing dispute between the two houses, with the result that each house adopted its own rules. The main goal was reached, however: in both houses the votes are recorded and are published in the house Journal.

Subcommittee Loophole

A major loophole in the recorded vote rules still needs to be plugged. Recorded votes are not required on actions by subcommittees. This means that, in effect, recorded votes are not required in the Assembly Committee on Finance and Insurance, one of those which makes basic decisions in subcommittees. These decisions are accepted routinely, generally through approval of subcommittee reports covering many measures, by the full Finance and Insurance Committee.

Other changes in legislative procedures are needed if informed and effective citizen participation in the legislative process is to grow. There will always be barriers to such participation. The present confused and confusing functioning of the legislative system, however, makes participation so difficult that at times the system appears to have been designed for that purpose.

C R I M I N A L

CAPITAL PUNISHMENT

When the California Supreme Court on February 17 declared that the death penalty violated the state constitution, it shifted the emphasis of the death penalty debate in the legislature from the question of abolition to that of substitute penalties. A number of measures proposed that life imprisonment without possibility of parole replace death as the maximum penalty meted out by the state.

However, Senator **George Deukmejian** (R., Long Beach) did introduce **SCA 13**, a constitutional amendment to re-establish capital punishment. The amendment, as introduced, would have provided that nothing in the state constitution should be construed as limiting the power of the legislature to provide for the death penalty. **SCA 13** was approved by the Senate Committee on the Judiciary by an 8-3 vote. On the Senate floor it needed 27 votes because a constitutional amendment requires a 2/3 majority. The best that **Deukmejian** could muster was a 25-13 count (see Voting Record).

Assemblyman **Alan Sieroty** (D., Beverly Hills) introduced a bill to abolish the death penalty, **AB 10**, as his first bill of the 1972 session. The California Supreme Court finding that the death penalty is contrary to the state constitution's prohibition against "cruel or unusual punishment," and the uncertainty early in the year as to how the US Supreme Court would rule on the death penalty in relation to the US Constitution, removed the pressures in this session for legislative action. **AB 10** was never heard before committee.

Mandatory Death

The US Supreme Court on June 29 ruled against the death penalty. The Court ruled that discretionary death sentencing—where the judge or jury has an option to condemn the defendant or merely imprison him—violates the US Constitution's protection against cruel and unusual punishment. Mandatory death statutes, under which anyone convicted of the crime is executed, with no special concessions by judge or jury, are constitutional, the Court said.

In California the crimes which carry mandatory death sentences are: causing an explosion which results in bodily injury, assault by a life term inmate, train wrecking, treason against the state of California, and perjury resulting in the execution of an innocent person. Undoubtedly during the 1973 legislative session efforts will be made to mandate the death sentence for some other crimes. Proposition 17, approved by the voters on November 7, nullified the California decision, thus permitting new death penalty laws as long as they comply with the US Supreme Court's requirements.

Future of Death Penalty

With the death penalty unconstitutional, what should be the maximum penalty suffered by future murderers? The proposal to substitute life behind bars, without any chance of getting out, presented problems for both the proponents and opponents of capital punishment. Most of those who favor abolishing the death penalty also oppose the idea of locking a murderer in prison for life, without hope for release.

JUSTICE LEGISLATION

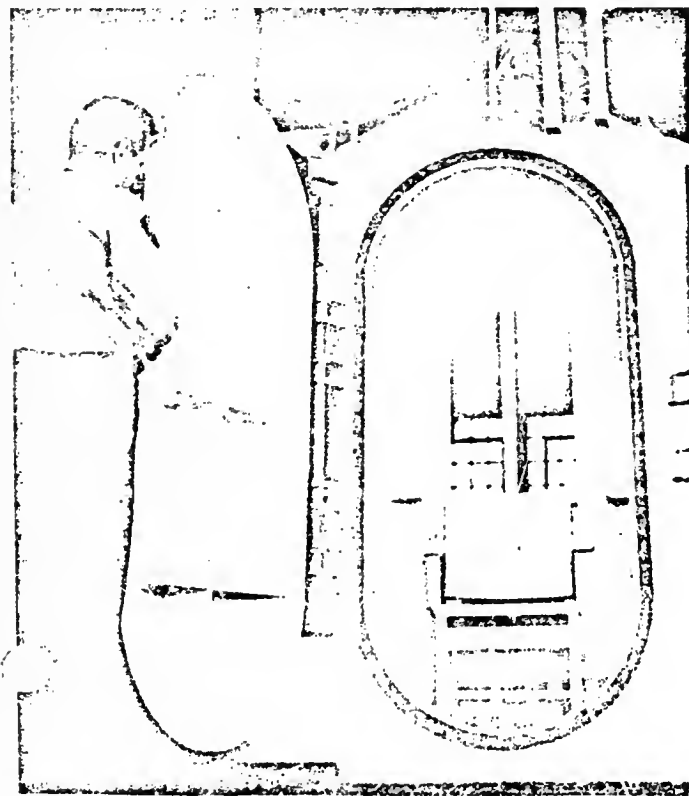
Those who support the death penalty point out that there can be no guarantee that a person will be kept behind bars for the rest of his days, as long as the Governor has the power to commute sentences and to issue pardons. A person serving a life sentence without possibility of parole may have his sentence commuted by the Governor to a lesser one. Then he can be paroled from this lesser sentence. It is also possible for the Governor to grant a pardon to any prisoner.

After the California Supreme Court decision, proponents of capital punishment became proponents of life imprisonment without possibility of parole. Senator H. L. Richardson (R., Arcadia) introduced **SB 307** and **SCA 16** to remove the Governor's power to commute the sentences of persons confined to serve their entire lives in prison. Noting that persons who are sentenced for murder to life with possibility of parole may be released at the end of seven years in prison, **Richardson** also introduced **SB 325**, to forbid parole before the person has served 25 years.

Both **SB 307** and **SCA 16** died in the Senate Committee on the Judiciary. **SB 325**, amended to forbid parole before 14 years in prison, passed the Senate 25-0 and died in the Assembly Committee on Criminal Justice.

AB 877 (Cory, D., Garden Grove), substituting life imprisonment without possibility of parole for the death penalty, died on the Assembly floor 29-39. (See Voting Record.)

It is likely that during the 1973 legislative session efforts will be made to extend the death penalty in California to the limit of the US Supreme Court decision may permit. Any attempt to open the way for future executions will be opposed in the legislature and the courts by the FCL, the American Civil Liberties Union, the NAACP Legal Defense Fund, and other veterans of the anti-capital punishment fight.



PRISON AND PAROLE

California prisons in 1972 gained more guards—about 400 of them—and more and better "security" equipment. California's prisoners will mill around behind those guards and security devices with as little to do, as little to hope for, as before.

That just about sums up the achievements of the 1972 legislature in the prison and parole field. Proposals for basic changes in the correctional system were turned down.

What constitutes a "basic change" in the correctional system can be debated, because the system is the ugly flower of a delinquent society. To the extent that a society is just and builds a strong sense of community, law-breaking will wither. How to deal with lawbreakers is very much a question of how to build a just society.

Looking more narrowly at correctional problems, and specifically at the problems of the California prison system, one sees a need for restoring to inmates their rights as citizens, and for bringing local communities face-to-face with the task of reintegrating individuals who broke the law into the stream of everyday living and creating. That the walls of the prisons must come tumbling down is no longer the trumpeting of wild-eyed Joshuas but increasingly the conviction of thoughtful persons in the correctional field.

Faults of the System

The basic faults of the prison system, frequently obscured by an abundance of prisoner complaints about bad food, unsanitary cells and guard violence, in California show up bare and clear. California has what some consider one of the finest prison systems in the world. It is also one of the biggest. Physical abuse of prisoners is forbidden by law. Food and clothing are adequate. Medical care is better than that in most other states. There are few superficial abuses to conceal what is really wrong.

One of the basic faults is the fact that the prisoner has virtually no rights. He is stripped of the opportunity to make decisions and choices. Deprived of this opportunity, he cannot develop a sense of responsibility nor grow in self-respect.

He also does not have the right to an objective and fair hearing when others make major decisions affecting him—decisions regarding his length of sentence, his time on parole, or his return to prison. Because those who do make those decisions can make or change them whenever they please, the prisoner suffers what one high Corrections official has described as the "psychological torture" of uncertainty.

Over recent years the legislature, partly through FCL efforts, has made small moves towards checking the virtually absolute power of the Department of Corrections over the day-by-day lives of the men and women in its institutions. (See, for example, **SB 1419** in Voting Record.) Nothing has been done to curb the equal power of the Adult Authority over the length of an inmate's sentence and his parole.

Prison Ombudsman

The chief bill to provide inmates protection against Corrections' abuse of its power was **AB 5** (Murphy, R., Merced), identical to **AB 1181** of the 1971 session, which was vetoed by the Governor. **AB 5** would have established the office of prison ombudsman, an independent officer to investigate prisoner and Corrections staff complaints.

AB 5 passed both the Assembly (52-14) and the Senate (22-

at the worst of all possible times: with only one month of legislative work ahead and committee and floor calendars jammed with bills still to be acted on. Changes in committee chairmanships—and sometimes in staffs—were made, to solidify the McCarthy victory, at a time when continuity and experience were of critical importance.

The FCL held tight and rode out the storm. It was difficult to keep track of good bills, bobbing in and out of sight in the wind-tossed legislative waters, much less to help them. The FCL and other people-oriented groups had all they could do just to watch for man-eating amendments and try to sink bad bills still afloat.

Changing The Rules

The FCL wanted to assure, if possible, that this situation would not happen again. A small group of legislative advocates from cause groups, including the FCL, met with Speaker McCarthy during the July recess to discuss the breakdown in democratic procedures.

Rules for the conduct of legislative business during the 1975-76 session will be adopted when the legislature returns in January. It is expected that the new rules will include a number of the cause lobbyists' suggestions.

Defenders of the first two-year session use an arithmetical argument, pointing to a drop in the number of bills introduced, to make their case. There were 7,000 bills before the legislature in 1973-74. For the 1971 and 1972 annual sessions, the total was 8,644.

Furthermore, during 1971 and 1972, the Senate was in session a total of 347 days; the Assembly, 332 days. By the 1973-74 adjournment date, the Senate had met for 249 days and the Assembly for 235. If one assumes that the fewer days the legislators are at work, the better off the state is, the first two-year session was truly a blessing.

It may be that the disease of the 1973-74 legislative session began and fevered with the passage of SB 450 to restore the death penalty, making death mandatory for eleven crimes and combinations of crimes. A newspaper listed the restoration of the death penalty among the accomplishments of the first two-year session, along with a law to make it illegal to drive a car without automobile insurance, and one to lower the requirements for approval of power plant sites. If successes are marked by death sentences, disregard for the environment, and exploitation of the poor, what on earth is failure?

CAPITAL PUNISHMENT

The struggle over the death penalty in 1973 was one-sided. The proponents were armed with an effective political weapon: the overwhelming vote of the people of California in November 1972 for restoration of state killings.

SB 450 (Deukmejian, R., Long Beach), to make the death penalty mandatory in murder cases where certain circumstances are found to apply, passed in 1973 by overwhelming votes in both houses. Twelve Senators and 25 Assemblymen held firm against premeditated murder by the state.

The opponents of capital punishment argued largely from two standpoints. One was that they could not abandon their consciences to follow the election results. The other was that,

when Californians voted for return of the death penalty, they were thinking in terms of California's old statutes. These statutes left the decision as to life or death to the jury.

SB 450 would mandate death, leaving no place for the quality of mercy. This kind of capital punishment law was not what voters intended to approve when they voted in 1972, opponents argued.

Governor Reagan was pleased with SB 450. The new statute restored the death penalty. It also increased the number of crimes and combinations of crimes for which a person could be executed, beyond the number in the earlier statutes which the United States and California supreme courts had declared unconstitutional.

Once the agony over SB 450 had ended, bills which would have extended the death penalty even further died quietly. There were no new bills, no further action on capital punishment in 1974.

Judges To Decide

The struggle against the death penalty has moved to the courts. The NAACP Legal Defense Fund and the American Civil Liberties Union are continuing the legal challenge of capital punishment which they launched in the late 1960s. Professor Anthony Amsterdam of the Stanford Law School heads this effort.

So far nine persons have been condemned to death under the Deukmejian law. None of them is likely to be executed until the California Supreme Court and the United States Supreme Court have acted on the constitutionality of California's new law and of death penalty statutes in other states. The high courts will hear arguments on LDF-ACLU cases now before them early in 1975.

When bills to restrict or abolish the death penalty will be introduced in the 1975-76 session—or whether they will be introduced at all—will depend in large part on developments in the courts. The FCL is keeping in touch with Professor Amsterdam, legislators, and other allies on these questions.

Bishops Oppose Death Penalty

The National Conference of Bishops recently adopted a stand opposing capital punishment. This is the first time that American Roman Catholic Bishops have taken such a position.

MENTAL HEALTH

Polarization has taken place in the mental health field in recent years with scientists and psychiatrists clustering on one side and ex-patients on the other. There has been an upsurge in legislation dealing with the use of behavior modification as a way of calming children, reforming prisoners, and making the mentally ill more "tractable." More and more organic methods have been discovered for controlling patients—more drugs, shock treatment, and psychosurgery.

Ex-mental patients are beginning to organize and speak out. They raise such questions as: What happens to a person who has undergone shock treatment? Are there long range effects from

The state lobby that's powered only by principle

San Francisco Examiner

Sunday Examiner & Chronicle / Mar. 6, 1983

By Mildred Hamilton
Examiner staff writer

THE "LOBBY OF last resort" in Sacramento is also the oldest public interest lobby there. And The Friends Committee on Legislation of California, to give it its full title, can make several other claims: probably the poorest, certainly the spunkiest and one of the most respected.

"When there is no other group to take on a good cause, we do," says legislative advocate Patricia Marrone, in San Francisco to meet with Lois Pryor of the FCL San Francisco office. "These days we are concentrating on protecting Aid to Families with Dependent Children and on the prison issue — reforms plus a moratorium on construction. These are hardly popular issues, and we are the primary voice in Sacramento on both of them."

The small Quaker-sponsored organization is solidly based in the philosophy "committed to peace, justice, personal freedom and the dignity and worth of every individual." It was created in 1952 to lobby against the loyalty oaths of the McCarthy Era — "years before the courts ruled that they were unconstitutional." Civil liberties, opposition to the death penalty, rights of farm laborers and fair housing have been other major interests. Recognition of the right is commonly FCL's only reward for the battle.

Both Marrone and Pryor, veterans of the social justice campaign trail, are looking now at California's strained budget "to try to safeguard human services and make the cuts equitable." In the past two and one-half years, Marrone adds up \$1.6 billion in cuts to human services. "We and others are saying that the poor can't take any more. The state is not generating enough revenue to support its programs. We are asking that the Legislature look at taxes and review how we lose billions in loopholes."

The Friends Committee claims the Legislature has not examined equitable tax increases for several years. FCL has a list of suggestions beginning "create a tax structure where the people who can afford to be taxed are taxed." The list

includes the personal income tax, bank and corporation income tax surcharges and an oil severance tax. The powerful lobbyists working against those proposals probably keep \$120,000 — the annual budget of the FCL — in petty cash.

Both Marrone and Pryor can grin at their David vs. Goliath role. "Our strength comes from our capacity to generate letters — thoughtful letters — and calls and personal appearances before the Legislature on issues and in the confidence individual legislators have in FCL as a source of information.

"Power or clout involving the Legislature is a funny thing. Money is such a significant factor. But we lobby for principles, not money. And we have no money. Our shoestring budget is being stretched more every day. We are a non-profit lobby, but we aren't tax-exempt. Our support comes from members who believe in our work."

Commitment figures in both the staffing and the membership support of CFL. Pryor has just become a volunteer worker for CFL after three years as the field representative in San Francisco (2160 Lake St., San Francisco 94121; phone 752-7887). An Alameda resident, she is president of the fair housing organization Alamedans With HOPE (Housing Opportunities Provided Equally). She earned a master of social welfare degree at UC-Berkeley and has worked both professionally and as a volunteer for the United Farm Workers.

'When there is no other group to take on a good cause, we do'

Marrone, who became a legislative advocate for FCL in 1980 after such experience as a community organizer for Catholic Social Services in Santa Clara County, director of a public interest research group, a teacher of environmental politics at Sacramento State University and a researcher for the Mexican American Legal Defense. "I have been involved in social justice issues for 12 years and have worked on legislation on the federal and state levels," says Marrone, a San Francisco State graduate with a degree in communications.

"We work in coalitions and in networks, but we have become the voice for the Aid to Families with Dependent Children and the prison cause. AFDC, for example, is the most vulnerable issue. In tough times, the issue with the least voice is the most likely to be cut, and there are no organized groups of welfare recipients."

When she talks about AFDC, Marrone pulls out a sheet headed "Myths and Facts About AFDC." She labels as myth the report California rolls are growing faster because our grants are the highest in the country. "Our grants are the third highest, and even so, they are an average of 20 percent below the poverty level."

Another myth, she says, is "once on welfare, always on welfare." The average stay is 22 months. She calls widespread welfare cheating another myth. "The overpayment rate averages 3 percent." And the claim that women have more babies to get larger welfare checks she calls myth. "The average AFDC family has 1.8 children, and the average family off welfare is the same size."

"Budget cuts have put increased stress on AFDC families and the lives of these poor children."

Marrone describes the lobbyist's life as "go, go, go," during the January-to-June legislative season. In a two-year session, she estimates that nearly 4,000 bills are introduced in the Assembly and another 4,000 in the Senate.

She attends the regular hearings of the committees on human services, crime and public safety. The Sacramento staff — two full-time lobbyists, two interns and two support members — gets out statements and letters to authors of bills and committee members "after a lot of research based on the philosophy of the Friends," talks to legislators, and prepares testimony for hearings. (The Sacramento office is three blocks from the Capitol at 926 J St., Room 1214. Sacramento 95814; phone (916) 443-3734.)

The San Francisco office — now staffed with one part-time worker — generates action based on the research. A Pasadena office coordinates Southern California support. "Our program covers legislation, education, research, fund-raising and training workers. There is also a national FCL, based in Washington, D.C., with whom we work on national matters."

LOOKING OVER RECENT years' efforts, Marrone says, "First, you must understand that we lose a lot. And it can be disheartening and frustrating. We do work for many years on an issue."

"Here's a success story. Last year there was a great attempt to jail juvenile runaways. That was the law in 1975, and it was changed because it was damaging and costly. Last year there was a movement to bring back this law. We worked diligently with other organizations and killed those bills. It would have been a terrible setback for juvenile justice. That was an out-and-out victory."

Other gains are measured in small ways: "in the seeds of fact we plant, in the credibility based on our consistent, solid information."

The lobbyist admits, "There is great potential for burn-out. I have days when I ask myself, 'What am I doing here? These hallowed halls are not interested in truth and justice.' But I feel the Friends Committee on Legislation of California would be missed. There is an important role for us."

"We measure our success by the forces against us," Pryor adds.

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University of California
Berkeley, California

Government History Documentation Project
Ronald Reagan Gubernatorial Era

Robert A. Houghton

LAW ENFORCEMENT PLANNING
IN THE REAGAN ADMINISTRATION, 1971-1974

An Interview Conducted by
Sarah Sharp
in 1983



ROBERT A. HOUGHTON

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INTERVIEW HISTORY

In "Law Enforcement Planning in the Reagan Administration, 1971-1974," Robert A. Houghton gives a detailed, inside look at the California Department of Justice's Division of Law Enforcement as it operated with Houghton as director and Evelle Younger as attorney general. Houghton did not act at a high level of visibility during these years and might have been lost from historical view had he not been suggested to the Regional Oral History Office as a potential interviewee for the Ronald Reagan Era oral history project by Edwin Meese III. Meese was executive secretary in Reagan's governor's office between 1969 and 1974, covering the period when Houghton was in the Department of Justice. Meese had come into the Reagan administration in 1967 as legal affairs secretary and, as Houghton recalls, retained a significant interest in California law enforcement matters after 1969, helping to implement several important programs.

Houghton was appointed to the position of director of the Division of Law Enforcement in 1971 after having spent over thirty years as a policeman in the Los Angeles area, first with the Beverly Hills Police Department and later with the Los Angeles department. He had completed academic work beyond his baccalaureate degree and taught police science subjects at Los Angeles State College for several years. When he retired from the department to accept the position in Sacramento in 1971, he was an assistant chief of police in Los Angeles and in charge of the Office of Operations. Houghton's work with the LAPD in the late 1960s included overseeing the police's handling of the Watts disturbance in 1965 and the investigation of the assassination of Robert F. Kennedy in 1968. Houghton wrote a book, Special Unit Senator, published by Random House in 1970, about this investigation.

In this oral history interview, Houghton sets out the theme of professionalization and modernization of the Division of Law Enforcement under his aegis and the coordination of different elements within the California law enforcement system, especially as they affected police work in local communities as well as on the statewide level. During the Reagan administration in Sacramento as he recalls, "things were switching around and becoming more law-enforcement minded."

Houghton donated many materials relating to his work in the Division of Law Enforcement which assisted the interviewer-editor in her research for this interview. Some of these papers have been included with this interview. The others, activity reports for the Governor's Office of Emergency Services for April, May and June 1973, two brochures describing the "Training Courses" offered by the Department of Justice Training Center for the period July 1979

through June 1981, as well as a speech Houghton delivered to the Project Safer California symposium held in Sacramento in 1974, have been deposited in The Bancroft Library along with a copy of this interview.

Houghton chaired the Criminal Justice Information and Communications System committee for Project Safer California. A brief excerpt from his 1974 speech summarizes the committee's attitude toward their work and underscores Houghton's own emphasis on professionalization and modernization of law enforcement techniques: "Criminal justice information and communications systems are at the very heart and pulse beat of our criminal justice system. The survival of the system is dependent on information to draw the total system together. This information is the key to system-wide coordination."

This interview took place at Houghton's home in suburban Northridge, California in December 1983. The interviewer-editor edited the transcript of this single taped session briefly for clarity and sent it to the interviewee for his review. Houghton made both grammatical and substantive changes throughout the transcript, rewriting unclear passages and adding much explanatory material. He returned the transcript to the interviewer-editor within one month.

Sarah Sharp
Interviewer-Editor

February 1985
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

BIOGRAPHICAL INFORMATION

(Please print or write clearly)

Your full name ROBERT A Houghton

Date of birth 11/21/13 Place of birth SALT LAKE CITY UTAH

Father's full name EDWARD SIMON Houghton

Birthplace PUTNEY VERMONT

Occupation SALESMAN

Mother's full name ALTA VAN PELT

Birthplace DES MOINES IOWA

Occupation HOUSEWIFE

Where did you grow up ? LOS ANGELES CALIF.

Present community NORTH RIDGE

Education UCLA

Occupation(s) LAW ENFORCEMENT

Special interests or activities READING - WRITING - GOLF

BIOGRAPHYROBERT A. HOUGHTON

BORN: 11/21/13, SALT LAKE CITY, UTAH

EDUCATION:

Graduated HS - City of Los Angeles

Attended UCLA (1937 - 1942) majoring in Psychology & Sociology

Completed additional college work at USC and L.A. State College

Attended Numerous Institutes:

Delinquency Control Institute, USC, 3/29-6/19, 1948

Teacher Training Program by State Dept of Education 9/1948

Humm Personnel Service Course, 4/17-18, 1950

Traffic Institute, UCLA, 2/4-15, 1952

University of California Division of Vocational Education

Conference Leadership, 2/4-18, 1955

University of California Clinic on Planning Conferences

& Workshops at Santa Barbara, 10/19-21, 1955

National Institute on Police Community Relations at

Michigan State University, 5/14-21, 1960

Taught at LA State College for 12 years (Police Science subject)

WORK HISTORY:

BEVERLY HILLS POLICE DEPARTMENT POLICEMAN 1938 - 1942

Duties: General Uniform Patrol

APPOINTED LAPD POLICEMAN (7/23/42)

Juvenile Division

10/17/42 - 10/17/45

Duties: Juvenile Investigator for all types of crimes

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APPOINTED SERGEANT

Juvenile Division

10/17/45 - 6/25/49

Duties: Officer in Charge of a unit of Juvenile investigators and acted as "trouble shooter" for Division Commander on special problems in other Juvenile units

APPOINTED LIEUTENANT

8/28/49

Central Division

8/11/49 - 11/11/49

Duties: Uniform Patrol Watch Commander - Officer in Charge of all police activities on one watch in a geographic police division

Personnel & Training Bureau

11/11/49 - 8/10/50

Duties: Adjutant to Deputy Chief in charge of Personnel & Training Bureau - Assisted Bureau Commander in his administrative duties

Patrol Bureau

8/10/50 - 4/11/52

Duties: Adjutant to Deputy Chief in charge of Patrol Bureau

Personnel & Training Bureau

4/11/52 - 6/26/52

Duties: Adjutant to Deputy Chief in charge of P&TB

Detectives - Wilshire Division

6/26/52 - 1/10/53

Duties: Watch Commander of detective unit investigating all types of crimes such as Burglary, Robbery, Homicide, Narcotics, etc.

Detective Headquarters

1/10/53 - 3/11/53

Duties: Special and emergency investigations as required.

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APPOINTED CAPTAIN

8/4/53

Highland Park Division

3/11/53 - 4/11/53

Duties: Patrol Division Commander responsible for all police activities in a specific geographic area

Training Division

4/11/53 - 3/21/57

Duties: Training Division Commander responsible for all formal department training of all LAPD personnel, and staff supervision over all on-the-job training; developed and initiated Pre-Sergeants and Pre-Lieutenants Training; revised recruit training; and developed a Command and Staff training school for the Department.

APPOINTED INSPECTOR

3/21/57

Chief's Office

3/21/57 - 2/20/58

Duties: Administrative Inspector assigned special tasks by the Chief of Police

Patrol Bureau

2/20/58 - 5/5/61

Duties: Patrol Area Inspector and Assistant Commander of Patrol Bureau

APPOINTED DEPUTY CHIEF

5/5/61

Bureau of Corrections

5/5/61 - 3/26/67

Duties: Commander, Bureau of Corrections
 Eliminated the sentenced prisoner structure of the Los Angeles Police Department Jail System which resulted in a manpower savings to the Department of approximately 172 sworn personnel. This phase was completed in July, 1965, thus reducing the activities of the Bureau of Corrections. However, the Chief of Police delegated additional responsibilities to this Commander unrelated to correctional activities: (1) Chairman, Personnel and Fleet Safety Board, to develop, institute and maintain a fleet safety program for the Department's vehicular fleet; (2) Chairman, Shooting Board of Inquiry, to develop,

R. A. Houghton
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institute and maintain a Board for examining and making recommendations to the Chief of Police on all shooting incidents wherein Department personnel are involved; and (3) Member, Electronic Data Processing Committee, LAPD, to study and develop a system for computerizing all Department records; (4) Member, Superior Court O. R. Release Committee, and (5) Legislative Representative for LAPD.

Personnel & Training Bureau 3/26/67 - 1/14/68

Duties: Commander, Personnel & Training Bureau

Developed a complete police recruit training program for use by the Armed Forces in Operation Transition. This proposal was requested by the Department of Defense; Instituted a completely new type of recruit police training which interspersed classroom instruction with field training; Reorganized and expanded the Department recruitment program.

Detective Bureau 1/14/68 to 9/22/69

Duties: Commander, Detective Bureau

With approximately 1,100 detective officers under my command, had the ultimate responsibility for the investigation of felony and misdemeanor crimes committed within the City of Los Angeles and for apprehending, interrogating and prosecuting offenders, in addition to effecting the recovery of stolen property.

APPOINTED ASSISTANT CHIEF OF POLICE 9/22/69

Office of Operations 9/22/69 to Present *May 1971*

Duties: Director, Office of Operations

Responsible for the overall administrative control of all field operations forces of the Department: Patrol, Detective, Traffic and Tactical Operations. This responsibility involves the planning, organizing and coordination of efforts of all police field personnel in the accomplishment of the basic police task -- to keep the peace; protect life and property; crime prevention; investigation, identification, apprehension and prosecution of offenders; and recovery of stolen property. The total personnel complement of this office is 5,793 sworn and civilian personnel, or 71.5% of Department strength.

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CALIFORNIA DEPARTMENT OF JUSTICE

APPOINTED DEPUTY DIRECTOR

May 10, 1971 to 1974

Duties: Deputy Director, Division of Law Enforcement. Responsible for the overall administrative control of all law enforcement investigative activities and related services in the California Department of Justice, which includes the California Bureau of Investigation, Organized Crime Unit, and the Identification and Information Unit. The Deputy Director plans, organizes, directs and coordinates the work of these units. The Department maintains the largest collection of fingerprint files outside Washington, D.C.--4.5 million criminal history files and 11 million name cards. The Division of Law Enforcement, through its units, provides local law enforcement agencies with centralized informational services, technical and investigative assistance, communication services and statistical information.

AFFILIATIONS

Former Commissioner, California Commission on Peace Officers Standards and Training. Resigned.

Member, National Auto Theft Committee, IACP.

Former Member, Highway Safety Committee, IACP. Resigned.

Past President and Member, Executive Board, L.A. County Peace Officers' Association.

Al Malaikah Shrine Temple.

Past President, LAPD Revolver and Athletic Club.

Member, Board of Trustees, Miller Community College.

Second Vice President, Los Angeles Philanthropic Foundation.

I THE DIVISION OF LAW ENFORCEMENT IN CALIFORNIA'S DEPARTMENT
OF JUSTICE

[Date of Interview: December 8, 1983]##

[The interview opened with a preliminary discussion of the Ronald Reagan Gubernatorial Era project and the process of oral history documentation.]

An Overview of the Division's Evolution, 1971-1974

Houghton: I made a few little notes I thought I would open with. I personally think you have to examine what was going on in the state, actually in the nation, prior to Reagan becoming governor. My note here says we had long periods of crime increases in the state. I know in the city of Los Angeles, where I worked, we were concerned, vitally concerned, with the continuing statistical rise in crime of all kinds. During that period, this was pre-LEAA [Law Enforcement Assistance Administration], budget improvements and increases were very difficult to come by. You were competing with all kinds of government services for the budget dollar. It was a tough road to go.

However, one of the things that occurred which is pretty obvious was that the population became concerned about the crime increase, and not only in California. Politicians were beginning

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 55.

Houghton: to get concerned about it. But still, politics being what it was and money being what it was, money for large budget increases (needed increases in manpower and in technology in law enforcement), weren't going very far or very fast at that time.

Then LEAA came into being. This, I think, was during the [Lyndon] Johnson administration.* That changed things dramatically because the thing that became plentiful was money. It was fairly well earmarked money, under the law. It gave the politicians an opportunity, or many of them, to do what they said they wanted to do all along. That was to help law enforcement and criminal justice generally.

It also tended, again, to focus attention of the general public on the problem of crime because with the increase in availability of money and resources--that made a lot of news. There was a lot of attention being paid to it.

When LEAA came in, I was on the Los Angeles Police Department. We made several requests for grants for different types of things, many of which were granted. This was going on, as you know, throughout the entire country. When I got to Sacramento there had been some projects under way, some of them very good, some of them not so good. These grants were processed through CCCJ [California Council on Criminal Justice]. Under the LEAA law each state had to set up a control and screening agency. CCCJ had come into being at approximately the same time. It secured permission from the state government to act as that state agency.

Again, when I arrived in Sacramento, in '71, it's true there were a lot of things going. Particularly there was interest and concern in computerization. A lot of money being spent on computerization in the state, not only in law enforcement but throughout the entire state government.

What I found when I got there was very difficult for me to realize--. I had come from an organization that was highly organized, in my opinion highly efficient. I came in with the understanding from Attorney General [Evelle] Younger that I would accept the job if I was organizationally directly responsible to him. Prior to that the Division of Law Enforcement had been under an assistant attorney general. The Division of Law Enforcement was one organizational structure beneath the attorney general.

*The Law Enforcement Assistance Act was passed in 1965, and administered by the Department of Justice. Nicholas de B. Katzenbach was U.S. attorney general.

Sharp: That was Mr. Smith.

Houghton: Yes, Arlo Smith. I insisted that this was an important branch of government and that the attorney general's office had an important role to play in California law enforcement. I felt it warranted division status in the department.

Sharp: Is that upgrading?

Houghton: Upgrading the department to a division level within the Department of Justice. Younger okayed that. I don't know whether he had to receive approval of anybody else. I don't know about that. All I know is that I told him I wouldn't take the job unless that was done.

When I arrived there I spent about two months looking around--these remarks I'm going to make now are strictly in reference to that department. (There are some other problems that came up that if you're interested, we can go into them later.) I looked around the department and I found an agency which was very poorly organized. The structure of the organization did not lend itself to good communications, or responsible assignment or delegation of authority.

For example, a lot of the investigation that was being done was assigned to the attorney's side of the Department of Justice. These were civil tort investigations of a kind. The only persons the investigators were at that time theoretically responsible to were the attorneys. The attorneys, in my judgment, were not qualified to supervise an investigative staff capable of or should be capable of a variety of investigational problems. In addition we had one or two classes of investigators, and that's all. No chain of advancement, no system of promotion potential. In my book, I felt it was a lousy organization which I thought needed realignment of the division responsibilities by internal reorganization.

But let me back up here a little bit on these notes. I also found, in reference to the LEAA money again, that while that money had been coming in, and there were grants being requested all the time by state government and obviously by a multiplicity of local governments, my evaluation was that it was fairly well non-directional. It didn't seem to be goal oriented. They seemed to be independent of each other, no coordination, which I felt was improper.

Houghton: If a program was to be developed within the law enforcement realm it should have some place where it fitted into the total program--the total objectives of law enforcement. While there was a lot of money, it seemed to me to be fairly non-directional and non-organized.

Under Governor Reagan I found quickly that his administration obviously was interested in law changes, which we can go into later if you'd like, attempting to find methods to change the laws which would aid and assist law enforcement, as well as improving the expertise of law enforcement via training, via communications and procedure methods.

Also, he was interested in efficiency. He was interested in getting the most for the buck out of the effort. Having a limited experience in state government, I am not sure it was always necessarily the objective of other administrations. It may have been. But I know his was. He and his staff were interested in general administration of law enforcement.

That was the feeling I immediately got through talking that first few months with Eddie [Edwin] Meese and [Herbert] Ellingwood and [Anthony L.] Palumbo as well as others. Some of them in the personnel department of the state recognized, as I did, what was obviously a bad civil service structuring of the Department of Justice Division of Law Enforcement.

In addition to sensing this, I quickly found that this administration's interest was also much broader than that. It was concerned with coordination with federal government agencies. There were a lot of local research organizations which were working in the field of law enforcement. I represented the attorney general in many of these projects.

I can't remember specifically whether any of my involvements came directly from the governor's office. At least the climate was such that if there were an interstate or national operation going on in law enforcement, the division was involved. I was personally, or some member of my staff was. That was a very healthy thing, for law enforcement to have that kind of flexibility and broad interest at the top of the government. That was a plus as far as I was concerned.

You have to understand a little bit about my own background. I came from a department that, while there was politics being played in the department (not internally, but in government there's always politics), our department was never really dominated by the political branch of the government.

Houghton: We were fortunate in having sixteen years under one chief, William Parker, who was a very strong individual who shielded the rest of us from political pressure. The department grew to considerable stature both statewide and nationally. So I wasn't really close to politics.

I retired [from the Los Angeles Police Department] as an assistant chief, which is a position directly underneath the chief. At that point I was involved in going before the city council on budget matters and on different hearings. To that extent I was involved in politics, but not the kind or nature of the politics I suspect was going on in Sacramento.

Where I got involved in politics was on budget matters-- when I had to appear before the various committees of the senate and assembly. Of course, there was politics there. But I was not involved in them, other than I had to take the results of it.

In other words, I didn't have to go to some assemblyman or some senator and promise him anything. I didn't have to play any of those games. I'm not saying that they weren't done because they may well have been. But I wasn't involved in it. I appreciated that.

[brief interruption]

Houghton: I found that beneficial to me personally because I don't do that kind of thing well. However, I must admit that I found that the red tape involved in state government was more than I was used to in L.A. I don't know if that comment's worth a darn or not.

Reorganization and Augmentation of Division Staff; Training of Local Law Enforcement Officers

Houghton: My examination showed me then that the division was poorly organized, not goal oriented. Even the objectives of the Division of Law Enforcement had not been properly spelled out. I couldn't find it in any document.

As I indicated, the civil service structure was poor. And morale was bad. I believe that to be innate in an organization where the head man is appointed and is there at the will and pleasure of the appointer. I think there is a tendency over the long haul for the career civil service man to say, "Well, this

Houghton: particular boss is only going to be here for four years. So I don't really have to worry too much about him. I'm here for twenty. So I'll march my feet along with him. I'm not going to get too dedicated." Which may be an unfair statement. But at any rate, the morale was bad. There were cliques within the organization--some of the branches were operating almost totally independent of the others, and communication and coordination suffered.

The changes I thought had to be done--I'd say 90 percent of what I thought had to be done was done--I was able to do. I was able to reclassify civil service structure so that we had agents one, two, three, and four, giving a path of advancement up through the organization. The agent four was in charge of some of the various regional offices. Agents one were obviously the entry step; then two and three required experience, promotional exams, and proven flexibility assignment ability.

I also was able to convince personnel that all of the agents assigned for investigation within the department should be under the Division of Law Enforcement. Those investigators that had been working for attorneys were classified (one, two or three) and brought in under the Division of Law Enforcement. Personnel was convinced that our investigators should be trained to work on a variety of assignments. We didn't have a man who was a narcotic investigator all of his life for example. He could work torts, felony crime, do background investigations where those were required. In order to do this a training program had to be set up. I'll get into the details of that later.

But what resulted then was a basic bottom-level structure that provided a ladder of advancement for everybody. They had to take promotional examinations for better jobs. From an agent four you could go to what was called a Chief or an Assistant Chief. Those were branch assistant directors and directors positions.

Then I restructured the top level. There were three basic branches. There were Investigation, Criminal Identification and Investigation and Criminal Records (the computer record branch). Here's a reorganization review report. It goes back into the history of the department.

Houghton: In '71 the Attorney General [Younger] at my request set up a reorganization review committee. This was an internal committee. This "Reorganization Review Report" states it all.* It lays out much of what I've said here. The investigator is assigned to special operations. These were all transferred in the division. New civil service classification. Comprehensive training in civil, criminal, and narcotic investigation to be established. This was the recommendation. The Bureau of Investigation and Bureau of Narcotic Enforcement field office would be reorganized under the overall supervision of the Investigative Branch. Then we had the Investigative Services Branch, which was the criminal lab function.

That was an interesting experience. They had a crime lab up there. It simply was not large enough to handle the responsibilities it should have had. For instance, I've forgotten the numbers of men now, maybe we had, say, four or possibly five technicians. The service that was supposed to be rendered was to local law enforcement on scientific investigative matters. With that few men and the number of calls we were having, they were either out of the office or in court testifying. So there really wasn't a service of any magnitude being offered. We made this branch--I'll discuss it later if you'd like--and we really improved the service. It became one of the finest state labs in the United States.

We decentralized the lab. We had a name for those. I can't think of it at the moment. Five or six or seven narcotics labs throughout the state so that locals who did not have a lab could bring their narcotic substance in for examination. We had a plan which I believe now is in effect of creating major labs, I think two or three of those in addition to the one in Sacramento. We improved our technical ability with the purchase through LEAA of a lot of special items, a lot of diagnostic equipment, and increased our manpower.

This state service became a real effective tool for local law enforcement. A lot of evidence material was sent in for examination in connection with all types of crimes involving everything from petty theft to homicides.

*Mr. Houghton supplied the interviewer with a copy of this report and it is appended to this interview.

Houghton: In '72 we undertook to develop a day-to-day operational plan and a long-range plan. I have a copy of one of those here. You can take a look at it if you'd like. We also defined our missions. The mission definition is in this report I see. We defined the objectives of the various divisions. They're all in here. I had forgotten that.

This report was made for the purpose of informing the attorney general as to where we were going and what the division was doing.

Sharp: When did you have that done?

Houghton: It's not dated. The latest date in here is '72. I imagine it was about '72 or near the end of '72. Here's one on narcotics. I don't know how much of this you really want to hear. But, for example in the enforcement on narcotics, we changed their enforcement policy from working on what we termed in our vernacular, "small time pushers" to working only on "major narcotic pushers." This is here, [reading] "suspects engaged in substantial sale or possession of illicit drugs, smuggling operations or illicit laboratory operations." Arrests of major violators have increased dramatically since the change of emphasis. It began in 1971, when thirty-two major violators were arrested. In 1972, there were 132 major violators arrested and 450 in the first ten months of 1973.* The direction of state narcotics investigation was, in addition to initiating investigations, to assist locals.

Many of the smaller departments didn't have the investigative skills or techniques. They didn't have the intelligence information. Or they didn't have the technical equipment to handle major violators. So we began working with them on their major violator cases to give them manpower, stakeout equipment, communication equipment, that sort of thing, which augmented their ability to handle their job, which was our proper function. Our function there was to assist local law enforcement.

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Houghton: Then we had our narcotic officers trained. We opened a training academy. Here's the Bureau of Investigation and Intelligence schedules. We did a lot of work in intelligence.

Sharp: How exactly would you define intelligence?

*Here Houghton quoted from p. 9 of the "Reorganization Review Report."

Houghton: Intelligence operations. It's the gathering of information which is directed to the identification of criminal activities either of individuals or groups of individuals. Basically, I'd say that's it.

The techniques of gathering are the problem, not what you're after. Techniques are what's a real pain in the neck. We've probably got a better definition in the report somewhere.

I mentioned training and I should get on to that and get into that. We did make a very fine training academy before I left. In fact we had to do that. When we changed the civil service classifications, we made them so they could transfer from one of the type of investigation to another. Requiring some basic training. Then, of course, you have the supervision training and so on, the skills that come into that.

Advanced Training Center--we started this in July '71 with criminal intelligence subjects. This was done under a contract with Systems Development Corporation of Santa Monica. "In March of 1972 a training officer was employed to develop the department's own Advanced Training courses and to coordinate in-service and out-service training courses in the Department of Justice. The Advanced Training Center became operational in April of 1973. Between April and October 29, 1,212 local and state officers attended the classes.

"The Advanced Training Center programs for local law enforcement agencies focus on the following areas--these are for other departments than ours--"Intelligence Collecting." How do you collect? "Analysis," which is a very key element. "Management of criminal intelligence data." "Narcotic investigations." "Technical and scientific laboratory services." (We had our technicians teaching other technicians.) "Protective services techniques." (Guarding dignitaries, that sort of thing.) "Utilization of surveillance equipment." "Major emphasis is now badly needed in training programs for management...." This was in '72. We started an entry training program for our new investigators, involving 480 hours of field training. "Management development." "Techniques of teaching and conference leading and other training required by statute."*

*Here Houghton quoted from pp. 14 and 15 of the "Reorganization Review Report."

Houghton: It was a good training program. We had our own little academy that was outside of our main facility. As I say, we trained a lot of locals. Now, interestingly enough to me, maybe not to you, at the time that I established the training center there was a lot of argument within the department that it should not properly be in the Division of Law Enforcement. It should be in one of the other divisions within the Department of Justice. The attorney's side felt that it belonged to them, particularly the administration side of the department. The administration division felt that that was an administrative matter and should belong to them. I opposed this concept and finally got it where I thought it belonged, in the area that was responsible for training--the Division of Law Enforcement.

After I left, I understand that it went over to administration for a while. Now it's back. To the extent that, if that was politics, there was a little bit involved during my stay there.

[Goes back to report] Let's see. We established the lending library of documents in our intelligence operation. This was not only books, but this was equipment, highly sophisticated surveillance equipment, the very latest stuff, which we would loan to local jurisdictions. We established a system we called VIA. They're still using it there. Visual Investigation Analysis, which is an adaptation of PERT [Program Evaluation Review Technique], with which I'm sure you're familiar. The idea is to apply the concept of PERT on a time and sequence relationship so that one can visualize how an investigation is progressing. Does that make any sense to you?

Sharp: Go over it again.

Houghton: Let's say you have a homicide, for example. On a VIA chart, your first block might be the discovery of the body. Where it was would be located off in one box. What the first investigator did, who he talked to and when, would be in a separate box, and so on. It's blocked out so that you can see, visually see, the time sequence and relationship between acts and the event.

The system provided a method whereby I could take a complicated investigation that my people were doing, if it was properly applied on the VIA chart, I could follow their investigation, identify the detail in which they were doing the investigation. I wouldn't have to necessarily interview every man that was on the case. If I was interested in a particular problem area, it was coded so that I would know where the report was if I wanted to

Houghton: read it. In addition, it could show a gap suddenly where something should have been done and wasn't done. You could back track quickly and pick that up. It was a technique that we did adopt. And I understand they're still revising and improving the VIA program.

In addition to the LEAA money for our programs our interest was in the federal government agency's national research projects--like SEARCH, for example, which I'm sure you've heard of, a nationwide group of experts. Very talented people, who were examining the technical areas on a broad and very scientific scale, and their applications to a variety of techniques applicable to law enforcement.

Bud [Orville J.] Hawkins was one of my assistant directors, later became the head of the SEARCH operation. He was active for me in that group, as he was in CRACLE,* and several other areas that were concerned with communications and computer information capabilities in criminal data applications. He was very good, knew his business. He and other men in the agency were the people who represented the Division of Law Enforcement. I could rely on them to do a good job.

Now I think I've run out of my notes. So you ask me.

*Communications Resource Assessment of California Law Enforcement

II POLICE WORK BACKGROUND IN LOS ANGELES

Early Career With the Los Angeles Police Department

- Sharp: I think I'd like to take you further back, not quite to the beginning, but maybe to your coming to LAPD. I'd like to get some notes on your years with the LA Police Department and a little bit about what that was like, because I think it might have some relevance to some other questions later on. Now, you didn't start out in California, you started out in Utah. I'm wondering how you got to California and to Los Angeles?
- Houghton: I came to California at the age of nine in a family of five children, parents and grandmother. We lived a few months in Long Beach. My dad was a lumberman, lumber salesman. We moved into Los Angeles. Obviously, I went to school here, as did my whole family. I went into law enforcement in the Beverly Hills Police Department originally. I worked there while I was going to UCLA, working nights. After, I think it was four years there, from '38 to '41. Was it? Thirty-seven, I guess. I don't remember the exact dates now. Although it's on my biography, if I could find it.
- I joined LAPD, primarily because Beverly Hills was a very small department and at that time I was interested in a law degree (which I never got because I got tied up and interested in law enforcement), and LAPD paid a little better and had more career opportunities. I could see the handwriting on the wall. At the time I entered, which was 1941, into LA, the bad part of the Los Angeles government had passed us. Mayor Shaw was out of office. The police regime under Shaw was very, very bad. There were many kinds of illegal things going on in the department. Vice was running wide open in the town. It was one of those kind of things.

Houghton: I worked for a while, before I went to Beverly Hills, in a place called Retail Merchants Credit Association, which was the second floor of the Subway Terminal Building in LA. The third floor was an open bookie parlor, to give you some idea.

I could see that things were changing. Norris Poulson had come in as mayor. No, I guess it was Fletcher Bowron. I can't remember which one came first. The whole town started to change direction before I joined the department. Shortly after I entered LAPD they brought in a marine corps general named Wharton, William Wharton, as a temporary chief to straighten out the department. I'd say Wharton made some very, very significant changes in the department and its organizational structure and operations. He was a tough little marine corps general. Tough is the word.

I worked juvenile for a time and decided at that time, since I did have faith that the department was changing and would be a good department, to go as far on that job as I could rather than take outside jobs or some of the things that other men did, such as real estate investments, etc. I don't criticize, that was their choice.

Anyway, I stayed and took the examinations, went up through the ranks, sergeant, lieutenant, captain, inspector, deputy chief and finally assistant chief. I had a variety of assignments, everything but traffic. I wound up as chief of detectives, and was appointed from there to assistant chief. I had what they call Operations, which was all field police work. That's detectives, patrol, everything but traffic was under my command.

I had served thirty years and Attorney General Younger came and asked me if I would come and take the job of director of the Law Enforcement Division. I said, "Sure, but I don't want to stay longer than eighteen months and I think I can do the job." Well, I couldn't do the job in eighteen months.

The Watts Disturbance in 1965 and Race Relations

Sharp: Let me just stop you right there. The latter part of your career in the Los Angeles Police Department, there was quite a bit of turmoil in the Los Angeles area. I'm thinking specifically of

- Sharp: Watts. I did interview General Anthony Palumbo. We discussed Watts and the role of the National Guard.* I'm wondering if you were involved in any way.
- Houghton: Very definitely. I was up thirty-six hours the first days without any sleep. Yes, I was involved in the meetings, the administrative meetings, as well as the operation of that thing. At that time I was deputy chief in charge of Bureau of Corrections, which ran all the jail systems in the city.

The arrests were heavy. There were so many arrests that I had to set aside the entire Central Jail, which is a big building, five stories, for arrestees. I had to arrange for five different courts right in the jail building so that we could process prisoners as fast as possible. Arrangements had to be made with the sheriff to come pick them up as fast as they were either released or sent to jail. Most of them went to jail. Not all of them. A lot of them we just didn't have an adequate case against. The arresting officer couldn't remember them or information was unclear, etc.

My other contribution was down on the "firing line," which was a scary proposition, believe me. I remember the National Guard coming in. And I remember those kids. I was driving down the street. You've got to picture this. It's dark. There are no lights at all anywhere. It's like driving in a tunnel. I had a driver. We were following this phalanx of National Guards down the street. Somebody up in one of the buildings fired a gun. We could hear the shot. I don't know who they were shooting at. Nobody fell or I didn't see it hit anything. But I remember this guard on the end of the line turned. He had his rifle pointed at our car. He looked about sixteen. He might have been older. I turned to the driver and said, "Let's get the hell out of here." [laughter] "He'll kill one of us before we move."

It was bad. It was real bad. I don't know what you've read or heard--. It was a bad situation. As to why, I think probably there's a lot to be said for the rising concern of the black population to prejudice and poverty. It was a hot summer. There were a lot of things going on in the black community which to understand you'd have to go and look at its history. It was just like a tinder box. It was just waiting to blow.

*Anthony Palumbo, "Law Enforcement, Emergency Planning, and the California National Guard, 1965-1974," an oral history interview conducted in 1983, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1984, in this same volume.

Houghton: As far as our intelligence on that operation, I know I've heard people say, "Yes, we kind of sensed that was going to happen." Hell, I don't think so. I don't think anybody on the department knew how bad that situation was and how uptight those people were.

The most difficult things were the fires and the looting. There were also some shootings. I'm not saying they're not important. But I'm saying the most difficult thing to control was that massive looting and the burning of cars, buildings, homes-- anything.

Sharp: You mean people setting fires?

Houghton: Oh, yes. Setting fires, burning whole blocks of the city. You'd have to have been there to sense what a horrible thing that was. The decision was made early in the game, the first day, I guess. I think it went "down" at something like three o'clock in the afternoon. We had the decision to make, either go in by massive force and crush it right then, while it was small; or block the area off and let it exhaust itself. That's the decision that was made. Well, it didn't work. It just blew out all over. We couldn't contain it. Then the decision was to put massive force in, which is what we did. That wasn't enough. So we called in the National Guard.

It was a bad experience. In the jail, if you can imagine, we must have had--oh, I'm guessing, probably two thousand prisoners in there--jammed in there. These big holding tanks were just packed with black people. I wouldn't let my jailers go in the cells because it was obvious that if they did they would have been killed. So to feed them we slid the food under the doors. And of course, the closest ones took the food. They were all fighting for it--and screaming and yelling--just a mess.

But we were able, by the end of the second or third day, to start processing them out. I think it was four days that riot lasted.* Four or five days. But our job went on for some time with all those prisoners. I had a tough time with that. Anything else you want to know about that?

Sharp: I was in high school in the Midwest and heard about it. It didn't make any sense to me at the time--why it happened or what the response was in the part of the police department. But when

*These dates were 11-16 August 1965.

Sharp: I talked with General Palumbo about it he talked about it from the point of view of the National Guard and coming in as a requested force. They were asked to restore order.

I had just wondered what your perspective was. I think that's pretty much what you've given.

Houghton: Yes. I was in on the sessions where we decided to get the guard in. At first--we were cocky and egotistical and thought we could handle it. It was soon apparent that we were not going to be able to handle it with our force. Our men were working double shifts. They were constantly on the move. It was a very exhausting, life-threatening situation, full of tension. The sun would come up in the morning and cars would be reporting finding dead bodies in streets and alleys. It was a bad situation.

I think though, in a sense, something came out of it that was--. Somebody who writes a history will tell. When Martin Luther King was assassinated, if you'll remember, I don't remember what cities now, but four or five cities throughout the United States just burst into flames. This city didn't.

This is a personal observation without any scientific data. I always felt that our black community found that riot is not the answer. They are the ones that suffered. They burned their own homes. They burned their own businesses. I always felt that they had learned a lesson, that that was not the way to go.

Now, maybe I'm wrong. Maybe I'm looking on the sunny side of things. I don't know. It's hard to tell. But that was a bad week or two, believe me.

Sharp: Did it significantly change the LA Police Department?

Houghton: I think it had an impact. I think there was more consciousness, more awareness of the needs and the bad things that had happened, not necessarily just with the police department, but with society in general and with black people. It wasn't long after that that we began riding black and white officers together. I think there was a consciousness and a recognition that things had to change within the police department and in society generally.

I'm not trying to say that we were consciously bigoted prior to that time. I suppose some would say we were. If we were, it was an unconscious sort of thing. I worked with black detectives an awful lot. I can't ever remember being particularly unhappy

Houghton: about that or particularly happy. That isn't to say others didn't. I don't know. You would have to talk to others. Yes, I think it had an impact on us. I think it had an impact on the whole community. I don't think it was just the police department locally. I think it had an impact everywhere. Don't you?

Sharp: I would expect that it would.

Houghton: Yes, I think it did.

III LONG-RANGE PLANNING IN THE DIVISION OF LAW ENFORCEMENT

Transition in 1971

Sharp: I'm wondering if you could just step back and measure the impact of your work as a police officer on your later work in the Department of Justice. What sort of attitudes you might have taken. You've already begun to outline that. Maybe you could address it very specifically. What you think you brought to the department?

Houghton: I think there's no question that my experience in LA as a police officer and up through the ranks had a tremendous impact on my reaction to the Division of Law Enforcement. I don't think there is any question about it. My analysis of what I found when I looked at it was drawn, the conclusions were drawn, from an LAPD administrative background. I don't think there is any question about that.

There were things that were going on in LAPD that weren't going on in the Division of Law Enforcement which I thought should be implemented. It wasn't as though I was trying to repeat or make a mirror image of LAPD. I don't think that's true.

This, for example, is one thing that I felt had to be done. The director of the Division of Law Enforcement had no staff, a secretary and that's all. I felt that was ridiculous. I wanted some investigators in my office to handle internal discipline investigations. I wanted them to make office inspections and investigation reviews on a spot basis to assure me that things were going well and that my lines of communication were accurate.

Houghton: So I put staff in my office. With an organization of fifteen hundred people spread out through the entire state, sitting there with a secretary and relying on four assistant directors to tell me everything that was going on--I didn't think I was going to find out. I couldn't. I wasn't sure they were finding out. So I wanted a staff to handle these internal things out of my office.

Let me give you a little story. After I had checked things out, as I told you, for about two months, I called my top staff together, which I think was two or three assistant directors, two or three chiefs of different branches. I told them what I had found much in the same way I've told it to you, that I found things that I thought were pretty bad and that I had given them some thought. I outlined what had to be done in order for the department to fulfill its obligation and to reach its own potential, which I thought could be very good. They had some very fine people up there, excellent people in specific fields.

So I outlined four or five things that I felt had to be done. Some of the things I've talked to you here about. Reorganization of the branches itself, the training, upgrading the civil service classes, etc. I went around the room and I asked every man, "What do you think about those four or five things I mentioned?" Every one of them said, "Well, this one's a good one. But you'll never be able to do it." "Personnel won't go along with this. You're asking for raises in pay for the men. You'll never get it." "That's a political thing." Another one says, "Yes, that's okay. I hope you can do it. But this one will never work."

In other words, I got a bunch of negative responses back on what I felt had to be done. All of them. I wasn't about to compromise. I said, "You know, we're going to do all of these things. I don't care how long it takes. We're going to do them. If you don't think you can do them, get out of here. Go away. We don't need you. I want people who can believe in what we're doing, see these things as logical objectives. And we'll do them. There'll be no problem. It may take some doing. But we'll do them."

I think they went away almost in shock from somebody talking like that. But we did it. They did back me. They did support it. When I left, I thought that the organization was fundamentally sound. I thought that the programs that were initiated were satisfactory. In fact, I wrote a report to that effect to the attorney general. This is in December '74.

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Houghton: I instituted an operational long-range plan. I told you I had one of those and I do. I have the one from Intelligence Branch here. It's an operational five-year plan. I had every one of the branches do that, every one of the sections do that. They had to have an objective and show the means to reach it. They were well aware that all of those objectives couldn't be reached within five years. They knew because we discussed it. The goal or objective may change because of law or something else occurring that would change it.

But nonetheless they had a long-range plan. This was sound. And I'll tell you exactly when I felt that. As I indicated to you before, because the attorney general is an elected officer and he appoints the director, there tends to be no long-range development plans. Every attorney general comes in with a different idea. Every director comes in with a different idea. So, there's no continuity.

I felt that a five-year plan of the division would assist a new attorney general to understand them. If he didn't like the objectives, of course, he could change them. But he would have some idea of how and when they intended to obtain their goals.

If you took the time to read that, you'd find that the plan had to be reviewed periodically by the people who were implementing it. They had to report time-frame schedules, and what problems they were having with their long-range plan, be they budget, personnel or coordination errors.

Sharp: Why have a plan?

Houghton: As I indicated to you. If you have organization objectives, each branch or section plays a part in their attainment. Each then should be able to identify its role in the organizational goal. For example, if your objective is improved service in criminal laboratories, you should ask what are the services we want to render? What can we now render in the lab? If you decide that it's voice printing, how and when do you get the necessary technical equipment and the technicians? How do you create and maintain your records? Those things can be plotted out, right? At the end of a given time, you have your equipment, you have your personnel, and you have the service.

Houghton: Same thing with intelligence operation. That happens to be their plan I handed you.

I talked to Pat Casey in charge of the Intelligence Branch about that plan. He is actually utilizing this now. He is following this even though [Governor George] Deukmejian and the director he appointed did not carry on all of the division five-year plans. They let it drop, which frankly annoyed me. Pat is still using it. He says that it gives him some administrative guidance, what he wants to do and where he wants to put his priorities, with what manpower he has and what the demands are on his services. This helps him make an administrative decision, which was its purpose. These plans should have been continued. The staff office operation, as well, providing administrative control of discipline, budget coordination, management development, manual controls, federal grant conversions and requests.

Management development program, this is a program that was initiated. I think it should be given top administrative attention. Flexibility of assignment within the division, from the rank of assistant chief upward. I wanted to be able to change an assistant chief in charge of one branch to another. I didn't want my assistant director in charge of investigations to be strictly an investigative man. He's primarily an administrative officer. And I wanted him capable of handling any one of the branches. I felt that was important. Maybe it isn't important. I thought it was.

Communications, a big problem here on the inter-branch communications. Staff meetings, three-day conferences, all those things that are pretty commonplace and needed improvement.

Future problems. [pause] A liaison unit with the law enforcement data center. I wanted a small unit of people who would coordinate and act as liaison officers with all the multiplicity of data units that were being built up throughout the state in law enforcement. Major problems developed between computers. Do they interface, is there duplication, use of compatible language, etc.? A liaison had to be established because, ideally, all records should be computerized in the state to be efficient and effective in law enforcement. The state computer should have liaison with federal computers.

Training function, I advised that state CCCJ plan for Regional Training Centers, to provide coordination, communication, juvenile justice, investigation techniques for law enforcement.

Houghton: Fiscal relationship. I felt that the attorney general should give priority attention to certain department relationships. In other words, where would he want to put his emphasis between his civic and criminal responsibilities. On the attorney's side you had three or four divisions. But we worked with them all. I felt that that was important, that some kind of priority relationship be established between the division heads and their duties.

Sharp: I brought those down for you. They show the listing of all the different sections within the agency in different years.

Houghton: [goes over roster] Assistant attorney general, yes. His chief deputy was Charlie [Charles A.] Barrett. And incidentally, Barrett was good to me. So was Younger. Younger treated me well. He practically gave me carte blanche to do what I wanted. I knew [Herbert L.] Ashby well. He's now an appellate justice [Warren H.] Deering's a judge. [Wiley W.] Manuel passed away. He was a California Supreme Court justice. June Sherwood, she was kind of the attorney general's public relations person and political vote gatherer-upper.

[Alfred L.] Coffey, criminal identification. [Charles E.] Casey, [Orville J.] Hawkins, and [Raymond J.] Stonehouse. And I made a fourth one. George [H.] Puddy, in charge of investigation services. Yes, [Ronald H.] Beattie, I remember all of these names. Seth Thomas, an outstanding program computer man. [Ronald F.] Hartley, an idea man, pretty good. It brings back a lot of memories. [pause]

I don't know whether you're interested in all this. [pause] The mechanics of input into a program can be done with any good programmer who knows his business. But the problem with computer services in law enforcement is with "turn around time." How fast could you get accurate information back on a timely and useful basis? Before stolen cars were on computer, the turn around time was something like four to five days, maybe even seven days. But with the computer it got down to about thirty seconds or less. So that was very important to a field officer anywhere in the state.

Sharp: That would be finding out whether it--

Houghton: --a stolen car or not, whether it was a "hot" car. LAPD today has computers in their cars so that the officer can punch a car license plate in and get a response back in seconds. The

Houghton: key to it is the kind of services needed and possible to give. In other words, these are the kinds of things that I hoped would be continued after I left.

Sharp: When you came into the Department of Justice, it was your understanding that you had pretty much free rein about what you wanted to do?

Houghton: Well, I can't say it that way. Younger offered me the job which was then called deputy director or something. It worked under the direction of Arlo Smith, who was first the assistant to Attorney General Lynch. Younger had originally set that up so I'd be working for First Assistant Charlie Barrett. I said, "No way." I didn't know Charlie Barrett then at all. I said, "No way, there's more people working for you in the Division of Law Enforcement, more services being rendered to local police than all your lawyers put together." Not that they're not handling important things, civil suits against and for the state, and protection of all the elected people and all that, but the Law Enforcement Division was there to enhance police services.

"I think this is important enough so that I work directly for you, not Charlie Barrett." So we reorganized the structure. As I said, I was up there two months and looked around. Then I went to him and told him what I'd found. And he said, "What do you think ought to be done?" I told him. He said, "Go ahead."

Sharp: Why did he pick you?

Houghton: Good judgment. [laughter]

Sharp: Had you known him previously?

Houghton: Well, he was the district attorney in this county when he ran for state attorney general. I didn't know him personally. But I knew an awful lot of his staff. I worked with his three attorneys on the Sirhan case. And I knew most of the other attorneys in his office. Since I was chief of detectives, we were in constant contact with the district attorney's office, as you can imagine. Yes, he knew me and I knew him. But we weren't what you'd call close.

Sharp: Did you have a feeling that you were selected from a lot of other people? I'm just wondering why exactly you were--?

Houghton: Good question. You really have to ask him. I don't know. If he's got any brains at all he must have had some pool of men he was looking at. He wouldn't say, "Oh, well, it's the only guy I can think of." There must have been some selection process on that. But I honestly don't know what it was, and I never inquired.

Local Resistance to Division Innovations

Sharp: I'm interested in the program that you decided you wanted to implement. I guess I need a statement to begin with just telling me what the Division of Law Enforcement was really supposed to do.

Houghton: The attorney general is the chief law enforcement officer in the state. That doesn't mean he's over all chiefs or sheriffs and all. But he has the responsibility for interpretation of law and maintaining integrity of sheriffs and chiefs of police. If he thinks something is corny in a city, he has an obligation. He must straighten it out. So in that sense he is the chief. He also is responsible for coordination of law enforcement agencies.

That's what the Division of Law Enforcement is. It offers services and coordination to local law enforcement. The most obvious example is the record keeping process. All criminal records are maintained there. Stolen cars, stolen guns, stolen jewelry, all stolen property records are kept there. That was to service law enforcement so that they could do a better job.

The investigation branch was intended to do just exactly the same thing, assist, advise local law enforcement. That's its function.

Narcotics the same thing. It doesn't set itself up as an independent separate investigation agency, but as a coordination agency. Not that it cannot institute investigations; it can. But its primary objective is to coordinate and assist local law enforcement.

The Bureau of Criminal Statistics is exactly what the name says. It gathers statistical data which is widely used. You read them hundreds of times in the newspapers. All the crime figures, all the analysis work that requires statistical

Houghton: data is done by the criminal statistical section. Also as I indicated to you earlier regarding crime lab work, that's there to assist local as well.

That's its function. In addition to that, the division has a responsibility to assist the attorney side of the house with their investigations and responsibilities on consumer frauds, torts, insurance frauds, all those things which are so-called non-violent crimes, many of them victimless. The division investigates that side with and for the attorneys. That's its overall function and its objectives. Is that clear?

Sharp: That's clear.

I wonder what the relationship might have been, then, between you and other Department of Justice members in the LA area. You mentioned June Sherwood, who, on the chart anyway, was in charge of crime prevention and control.

Houghton: She did things, as I remember, and I can't fully remember everything but she worked with older folks on crime prevention, minority groups on crime prevention and that kind of thing.

My relationship with other law enforcement was primarily administrative and analysis of service. "What can we do to help you?" "You can use us." Or, "You should be doing it another way."

Now, there's some very sensitive areas in here. There's still a tremendous amount of provincialism in law enforcement. It has been there ever since Wyatt Earp did his thing. It still exists and isn't all bad necessarily because it tends to create pride in your own function. But nevertheless, it acts as a barrier for a lot of things which should be done on a coordinated basis.

Sharp: Sort of a territorial kind of thing?

Houghton: Yes. Yes, that's right. The larger the department the more provincial it is, amazingly enough. I believe that someday they'll have state-owned, state-operated crime labs, maybe four of them in the state. Major, well-operated, highly technical, well-managed labs they would have to be. Then LAPD wouldn't have to have a \$40 million lab. Sheriffs wouldn't have to have a \$50 million lab and every major sheriff's office in the state have one. They could use the services of these centralized services. It would be cheaper for the taxpayers. But they won't do it. They don't

Houghton: want to let go of their own services. There are some benefits to not letting go, too. You have control of it. You know what's going on. You know their capabilities. If somebody else is doing it, you're not so damn sure.

I don't know what, really, your question is aimed at. My relationship with LAPD was excellent. I knew everybody. If I wanted information or we had a problem with some issue, I knew where to go to get it straightened out. If that's what you're asking.

Sharp: Your comments remind me a little bit of some of the statements that General Palumbo made. He was interested in working on a mutual aid concept with the California National Guard. He mentioned that there was some amount of resistance. You mentioned it yourself, speaking from the police officer's point of view. There was some feeling that there was a resistance.

Houghton: Yes, that's true. It's also historical. Local government, maybe this is a platitude that's not totally true, local government tends to resist superimposed powers on it. Historically I've found, and this is very true, that every time a county does something for a local government there's a string on it. The city loses some control. Every time the state moves in on a county, they lose some control. Every time the federal government, and so on. So there is some foundation for it.

I worked on some of these committees with Palumbo and Temple and some of those other fellows. My function primarily in those committees was in the area of communications, coordination of radio communications. We had a communications system ourselves in the division. We were attempting to assist in improving the communications for emergency purposes between law enforcement agencies. That was our main concern in these committees.

Now, they had other problems. Coordination of law enforcement with [H.R.] Temple's thing in case of an emergency.* The attorney general had some obligations there too. I was involved in those. But primarily Temple, who was a very good man, knew what he was doing. So I didn't have just a lot to contribute to that.

*H.R. Temple, Jr., was the director of the Office of Emergency Services.

Working With the Administration; The Division in Earlier Years

Sharp: You mentioned when we first started talking that you became aware of some of the ideas that Mr. Reagan and others in the administration had about law enforcement, some changes that they were interested in.

Houghton: That's right. I did.

Sharp: Was that sort of an ongoing relationship, that you might have heard from Mr. Meese, or Herb Ellingwood?

Houghton: I'll tell you what I think. I don't know whether I should talk like this. I'll say it from my point of view. When I got up there my main concern was the division itself, as obviously it should have been. I couldn't believe in all cases that it could be the way it was. I don't see how it could get in that particular kind of shape.

So I did go outside and ask. I remember talking to Eddie [Edwin] Meese III. I don't remember whether he initiated the call or I did. Anyway, I met him. I was very impressed. He seemed receptive. I think he was kind of feeling me out. I don't know.

Sharp: Was this after you had been appointed?

Houghton: Oh, yes. He was very receptive and I, not being a politician, say pretty much what's on my mind. I can remember talking to him about what I'd found and shaking my head and he was grinning like a Cheshire cat. I could sense right away that he understood what I was talking about. He knew. From then on he was extremely supportive.

Where I needed help in the budget, with personnel or somewhere outside the department which I couldn't get anywhere else, I'd go to Ed or Ellingwood. They were extremely supportive of what I wanted to do, not necessarily just of me, but what was going on and needed to be done.

So, yes, I did. I talked to people in the personnel department too when I wanted to do some of these things. At first there was a lot of raising of eyebrows. But finally, after a great deal of talking, I found some of them, I can't remember who or what level they were, who were supportive, who said, "Yes, that can be

- Houghton: done. If you can justify what you say, yes, we can support it." So it wasn't all just inside. I had a lot of help from outside, obviously, to do what had to be done, or I thought had to be done. Put it that way. If that's what your question was.
- Sharp: Were Mr. Meese and Mr. Ellingwood interchangeable?
- Houghton: No. Meese was--I don't know what the title was. I've forgotten if I knew. Executive officer? Assistant or something.
- Sharp: Assistant. And Mr. Ellingwood was legal affairs secretary.
- Houghton: That's right. And that was the difference between the two.
- Sharp: Meese had come in in '67 as legal affairs secretary with Phil [Philip M.] Battaglia and then Bill [William P.] Clark as executive secretaries.
- Houghton: That's right. That was before my time. But you're right. When I knew Eddie he was one of Reagan's right-hand men. And so was Herb as far as I know. As the legal guy, Herb was extremely helpful on what the rules and policies were on personnel, and the legal ramifications of what the law said could be done, and whose responsibility was what. I didn't know all those things.
- Sharp: Did you have an idea for one of the programs and then try to have him outline for you whether or not it was legal?
- Houghton: Yes. Where the problems, if any, were. If he could see any problems, then I would try and figure a way out. And he would too. He would help me try and figure out a way of getting it done properly. He was most helpful in advising me, in fact guiding me through the "red tape" of getting the investigation group reclassified.
- I can't stress enough how pleased I was with the governor's office. As I said when I started out talking initially about the climate that existed when Reagan came in, you ought to remember that things were switching and becoming more law enforcement-minded.
- Prior to him I don't think the administration was quite as interested in that aspect of government as Reagan was.
- Sharp: You mean Pat Brown [Edmund G., Sr.]?

Houghton: Yes, sure. His interests and concerns were not necessarily in the area of law enforcement.

Sharp: Mr. [Thomas C.] Lynch's weren't either?

Houghton: Right, but you want to remember Lynch and Pat were--they came up through the San Francisco district attorney's office together. I had met Lynch several times, but I didn't know him well. I can only say that--I hope this isn't too critical--what was going on in his Division of Law Enforcement was not, in my opinion, as well as it could have been.

Sharp: There are some notes that say that Mr. Lynch's approach was very antiquated, especially in the law enforcement area.

Houghton: You said that. It was status quo, those are the words. When I got there it was absolutely status quo. Don't rock the boat. Don't make any big changes. That was my feeling about the place. Now, I'm not trying to lay responsibility for it anywhere. I suspect it's the nature of the political structure that brings that kind of apathy into an agency. People have to want to do something to make it move.

Sharp: That's why I was asking you about the plan, as a way of my sort of playing devil's advocate, to ask you why was the plan really important?

Houghton: I tried to answer that. It gave some life structure to the organization. It gave some longevity to programs. It would be simple for somebody, a chief at one of the bureaus, if a program was going on that he didn't particularly like and a new man came in, it would be no problem for him to kill that program if it was not an established policy of the agency.

I think that the long-range plan concept is important to any organization. I don't see how an organization can have a sustained life on a goal-oriented basis without having some plan to get there. That's my feeling. So I thought that was important.

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Sharp: These are some questions based on information that I got out of the interview that I did with General Palumbo.

There was, in effect, in the second administration, an expansion of the criminal justice and law enforcement area in California. The role of the National Guard itself was somewhat expanded actually. The mutual aid concept broadened.

Houghton: They put in some excellent training programs and so forth.

Sharp: Colonel [Louis] Guiffrida was one of those people involved with the California Specialized Training Institute.

Houghton: That's right.

Implementation of Mutual Aid; The Public Safety Agency

Sharp: The Emergency Planning Council, which started in 1967 and spread out, and the Office of Emergency Planning and Operations, which General Palumbo directed, which led later on at the very end in '74 to the creation of the Office of Criminal Justice Planning. I wondered, maybe it's obvious, but how all of this other activity dovetailed with what you or some other people were doing in the Department of Justice?

Houghton: I'm not sure I know what you mean, "all this other dovetailed?"

Sharp: What I just mentioned to you, the expansion of the mutual aid concept and the training and so on.

Houghton: Let me take those two cases right there. That would be of concern to law enforcement because law enforcement is charged with the overall management of certain aspects of emergencies. They have a large share in the handling of major emergencies. All public services have a part of a major emergency, water, power, transportation, health, you name it.

Any department of government, if a major emergency occurs, has a function in that major emergency. Yes, law enforcement would be vitally concerned with identification of authority, areas of responsibility. Who, for example, is going to do the crowd control? At what stage does it change, if it changes? Does law enforcement take the first step and then the state come in? Or is there mutual aid so that you call all other agencies in and under what conditions, and how do you reimburse, etc.--?

All these things are involved in major emergency planning. Very definitely, law enforcement would be a part of any of that. You couldn't plan without them. They couldn't do anything without the others. Does that make sense?

Sharp: Yes.

Was there a bit of a tugging back and forth between the Military Department and the Division of Law Enforcement or the Department of Justice in terms of who might actually be number one?

Houghton: [pause] I can't remember any specific problems with that. But I can say as a general rule, those are difficult problems to resolve. At what point does the local call in any outside service? And if they do, what authority, if any, do they relinquish when they do that? And if they release, how much responsibility do they release? Does the responsibility shift with the authority? I can't remember any particular problem that I had with them.

I know in one of these things you sent me, you refreshed my memory on something I thought was kind of interesting. I had forgotten about it. I wonder what I did with it. I was on the Governor's Select Committee on Law Enforcement Problems. Yes. You sent me this information.

Sharp: Yes, we'll get to talking about that.

Houghton: I don't want to go ahead of you then. One of the things in this report I remember was some dispute about--. I didn't mark it. I should have. [pause] I can't think of what it is now.

Sharp: An area where the military department and the civilian--?

Houghton: Something, it seemed to me, in that area rings a bell. Oh, I know what it was. Maybe you'll want to talk about it. Reorganization-- to create a Public Safety Agency. That was what it was. There were some problems with that. If you'll notice, the Division of Law Enforcement in the attorney general's office is not in this Public Safety Agency, which is ridiculous. But you can figure out why that happened. The very thing that you were talking about, agency differences, provincialism, etc.

Sharp: We can talk more about that when we get to talking about the select committee, which is right on my list.

Campus Unrest as a Law Enforcement Issue

Sharp: I would be interested to know how much of this shift or new interest in sophistication of law enforcement techniques and so on was due to some of the things that were going on in California. The campus unrest comes to mind most immediately, maybe because of my age and maybe because of just what I know about it.

For example, during the campaign for re-election in 1970, several people who worked on that campaign have said that they often, on the campaign trail, got into situations where the campus unrest was so bad that they really feared for their lives. I found that very interesting that they really did perceive such an extreme situation. I'd be interested to know from your perspective if the campus unrest really was that significant an element in pushing towards some of the sophistication of law enforcement.

Houghton: I don't think there's any question that any time a situation occurs which either exhausts or strains the capabilities of an agency-- I will tell you what we used to do in LAPD, for example. Something would occur on a college campus, as an example. The division in which it occurred was responsible. The commander at the scene deployed what forces he thought he had, with what equipment he thought was needed. He would analyze the situation and decide whether or not he was capable of handling it. This may be a decision that turned on some occurrence after he got there and got deployed. A lot of things could happen.

But at some point he makes this decision. Then he calls headquarters and says, "I need X number of men. And I need them to report at this time at this place and with such and such equipment." He's still in charge. He is given the men out of somebody else's forces somewhere.

Then it gets to where he can't handle it all. Something is going on that's bigger than he can handle. Then a superior officer comes in and has to relieve him. It then becomes an area problem. It may be an inspector of an area that comes out, the captain's boss, in those days. He takes over.

It graduates until it gets to the point where the department's resources are devoted to it. Like the Watts riot, where everything was devoted to that riot. All the forces we had. And there was minimal normal patrol, minimal response to calls. Anything else. At some point it reaches this situation.

Houghton: I can remember when we had problems out here in Northridge, on the Northridge campus. We had some in high schools. And some at UCLA. I can't remember any big ones. But we had the little ones at USC. They were commonplace in those days. You're talking about the early sixties, aren't you?

Sharp: Early seventies, actually.

Houghton: Late sixties and seventies. Sure, technical things would have to be secured, better communications, better systems of recording events, some of them requiring technical machinery. Anything that happens which presents a problem which either, as I said, strains or exhausts resources, results in service changes.

After every one of those we would have a session in our department in which we would discuss what went on, what weaknesses we had, whether we did things too early or too late, whether we used proper amounts of manpower or not, what we did needed to do and when and what equipment would we change to do it better next time. We would alter plans. I've got copies of plans out in the garage.

I remember we had a parade. I've forgotten what it was called. A Mexican parade. It started out here in the valley and went all the way across town. At that time the group that was running it was considered to be a possibly violent group. So we had to prepare for any eventuality along that whole parade route, some twenty miles. We took advantage of all of these conferences and everything else in making our plan and the thing went down without one hitch. Nothing happened. And I got criticized: "You overmanned it." Baloney. Nothing happened. You can't beat that.

Sure, I think the campus riots increased the need for campus intelligence. All these things had to be examined, if that answers your question.

Sharp: It does.

Department and Division Administration

Sharp: This is another tack, then, and back to the workings within the Department of Justice itself.

- Sharp: How did you find out what else was going on in the department outside of your division? I mean so you weren't isolated.
- Houghton: The attorney general had staff meetings periodically with the heads of each division.
- Sharp: You and the other people.
- Houghton: Yes, Charlie [Barrett] and [Herb] Ashby and a big guy, [Edward A.] Hinz, and the others.
- Sharp: Coffey?
- Houghton: No. You're talking about the department now, not the division. I'm talking about Younger's staff. There were about six or seven of us in these staff meetings. And he would have an agenda. On the agenda was, of course, anything we wanted to bring up after we were through with his agenda. So there was a great deal of interchange of comments about everybody's job, mine included. I would comment on the work that I thought they were doing, good, bad, or indifferent. So there was that interchange.

In addition to that, I worked with his second level down, who were in charge of his various sections.

[Albert W.] Harris [Jr.], for example, was one. Harris had developed, under Lynch, an efficient but improperly placed agency which handled highly technical, difficult criminal cases. It was called Special Investigations. Harris prosecuted an LA district attorney around here who killed his wife, if you remember that case. That's the kind of case he handled.

I worked quite a bit with Wiley Manuel, particularly on budget matters, he and I worked very closely. He was in a civil section.

- Sharp: It's important for us to get at the kinds of issues that you would have brought to the weekly deputy director sessions. What I'm trying to do is get at the decision making that might have gone on in these meetings. An issue, a problem, whatever you might have brought in.
- Houghton: Number one, the attorney general wanted to know, in specific areas and in general areas, what your division was doing. For example, among general areas, he may want to know about your use of cars or the status of major crime cases. He was concerned in broad areas about the efficiency of the outfit. I'll try to think of something there.

Houghton: Specifics: in my particular area he was interested in how the data processing new development was coming. We started a system. We had a name for it too. One of those initials OBTS [Offender Based Transaction System]. (Everything's got an initial.) Of tracing and maintaining criminal records on each individual. I followed individuals through the entire justice system. The arrests, the district attorney, city attorney, court, all processing agencies. Well, he'd want to know how it was progressing, if there was any trouble with it and our anticipation of when it would reach some kind of functioning level.

He was interested, lots of times, in specific cases. Many of them had political implications. Investigations on some public officials. For example, I would have to bring him up to date and where we were going with it, if going anywhere.

Then there was a lot of talk, particularly at budget time about internal, interdivision problems and what was critical and what wasn't. Obviously, you'd get that in budget meetings.

I would work a lot with Charlie Barrett on that. I would write to the attorney general through Barrett, a progress report each week of what was going on in my shop, what I thought was important and would be important to the attorney general. If a hot investigation was on, I'd summarize what it was. I would update him on problems we were having with the development of any program and discipline problems.

I don't know that that answers your questions.

Sharp: It does. I want to back you up a little bit because I want to know more about it. In these particular meetings when you might discuss the budget, would that be a discussion of the Department of Justice budget as a whole?

Houghton: Yes.

Sharp: Was this the point where certain programs made it or didn't?

Houghton: Yes. Each of the division chiefs would prepare a budget.

Sharp: A real hopeful--

Houghton: Yes. I did the same thing. I had my assistant directors prepare a budget for their particular branch. I insisted that they use their chiefs, and they had three or four chiefs in each one of the

Houghton: branches, and have meetings to discuss what those sections wanted. They would prepare a budget, each one. Then I would have a meeting with my assistant chief and do the same thing. For example, I would say, "Chief, there's no way I'm going to approve four airplanes. You're out of your head."

I would eliminate a lot. What I thought was a proper and fair budget, with some hope of approval, I would make that the division budget and submit it to Charlie [Barrett]. Charlie would go over it and then we would have a meeting. Charlie would usually chair those meetings because he kept right up on the budget. Then we would discuss it in the staff meetings.

I was fortunate. I don't know how to put this. I got an awful lot of things in those meetings, more than the other division chiefs. I don't think they resented it. But they didn't particularly like it either. I wouldn't call it favorite treatment. I just got more in proportion to what I had asked for than they did. That was true too of the governor's meetings on budgets.

Sharp: Was that just because the time was right for some of those programs? Or do you have another level of understanding about why you got it?

Houghton: I had built budgets for years and been part of building budgets for a long time in LA. I knew budget procedures. I knew method and means of supporting budget requests. I knew the techniques of preparation of a budget. I'm not sure that most of them did.

Sharp: Other members of the Department of Justice?

Houghton: Yes, most of them had little experience in budgeting. I hate to say it like this, though. It sounds so critical. My budgets were a little cleaner, a little sharper than theirs were. Not so many soft spots in them. If somebody had a question, I usually had an answer for it. Somebody wrote, "Why do you need seven men instead of six?" I could show them why seven men could do it, with days off and sick time and work volume.

But I'll say this for [Evelle] Younger and his staff. They reviewed these with a great deal of care. Younger was vitally interested in them. I admit that when I prepared my budget, I would go to other people, Eddie Meese and some others and say, "This is what I'm looking for and here's why. Have you any comment?" That's part of budget process. You better know what you're doing and what weaknesses are present.

Sharp: Sounds like you're more of a politician than you think you are.

Houghton: That's budget processing. I'm not a politician. To me, I'm not a politician. I'm not careful enough in what I say. And I don't lie either. Not that all politicians lie. But a good number of them do.

Sharp: Did Mr. Meese and Mr. Ellingwood have suggestions, any sort of programs that they might have had in the back of their minds?

Houghton: Yes. I can't give you any specifics. But I can remember early in the game, real early, I'd come in to talk to them and they would talk about things that they thought: "Why couldn't this be done?" I can remember definitely that they were not only supportive of what I wanted, but also helpful in suggestions, no question about it.

So was Younger. Younger had a lot of ideas. He was kind of an idea man. And he would do the same thing: "Why can't we do this?" I'd answer him, "We can't do that," for whatever reason. Or, "Yes, I guess we could."

IV SPECIAL LAW ENFORCEMENT EFFORTS

A Note on the Department of Justice Training Center; The
California Emergency Council

- Sharp: I had a note that you were an alternate for Mr. Younger on the California Emergency Council. I wondered what it was, how it operated, and what you did on it.
- Houghton: I think I have some material on that. [pause] Here's our model in-service training program, by the way. I'm a packrat.
- Sharp: Oh, good for you! Are these extras, or your only copies?
- Houghton: I don't know. If you want some of them, you're welcome to them. [goes through papers] That's on training.* I hired a bunch of researchers to analyze my training needs. I did that, frankly, as a tactic for support. [pause]
- Sharp: How long did you remain in the Department of Justice?
- Houghton: Three and a half years.
- Sharp: Then where did you go?
- Houghton: I retired and served one year on the LA county grand jury.

*This analysis of the Department of Justice Training Center is included on the following pages.

DEPARTMENT OF JUSTICE TRAINING CENTER

OBJECTIVES

The objectives of the Department of Justice Training Center are to:

1. Provide training to local California law enforcement that is unavailable elsewhere. A secondary objective is to take training to those agencies that are located long distances from existing training centers.
2. Provide internal training for members of the Department of Justice.

The Training Center meets these objectives with 28 authorized positions (not all are presently filled) and a budget of \$1,107,643.

AUTHORITY

As chief law officer of the State, the Attorney General has the responsibility of insuring that laws are uniformly and adequately enforced in every county. In 1953, the Legislature directed that: "The Attorney General shall . . . arrange for and organize schools at convenient centers in the State to train peace officers in their powers and duties and in the use of approved equipment and methods for detection, identification, and apprehension of criminals."

HISTORY

Using available resources, the Attorney General's Office had provided specialized training on a limited scale to local agencies on request for many years. However, in a major upgrading of the Department's training program the Advanced Training Center was established in 1972 at Broderick, just west of Sacramento. With a full-time staff and modern training equipment, the Center was now capable of presenting a systematic and well planned training program, not only to local California law enforcement, but also to members of the Department of Justice.

During its first two years of operation in Broderick, the Center trained more than 2,000 local California law enforcement officers. Additionally, special training courses were developed and presented.

During the 1975 - 1977 period, the Center conducted a comprehensive 17-week advanced entry level investigative training program for departmental special agents, as well as in-service training for special agents, and supervisory and management training for managers of the Department's investigative functions.

Additionally, a number of programs were tailored to meet the needs of specific criminal justice groups. District attorney and public defender investigators received training in a series of eleven courses; arson investigators in the State Fire Marshal's Office received one month of intensive investigative training; the Department of Health received 22 offerings of courses designed for inspectors of community care centers.

By 1976, the training program had outgrown its Broderick facility. Consequently, the Center moved to its present north Sacramento site which comprises over 11,000 square feet of classroom and office space. The name was also changed from the Advanced Training Center to the Department of Justice Training Center.

FUNDING

Initially the program was funded by a combination of federal grants, POST reimbursements, and Department of Justice general funds. The last federal grant ended in 1979, so funding is now almost evenly divided between general fund and POST reimbursements. An additional small source of funding is the reimbursement the Center receives for overseeing the statewide tear gas for citizens training program.

For 1979/80 the Department provides \$522,957 in general funds support, while POST reimbursements total \$511,028. Tear gas reimbursements are projected to be \$46,867.

FUNCTIONAL PROGRAM

The Training Center is divided into three institutes with an administrative unit that includes the Center's manager and clerical support.

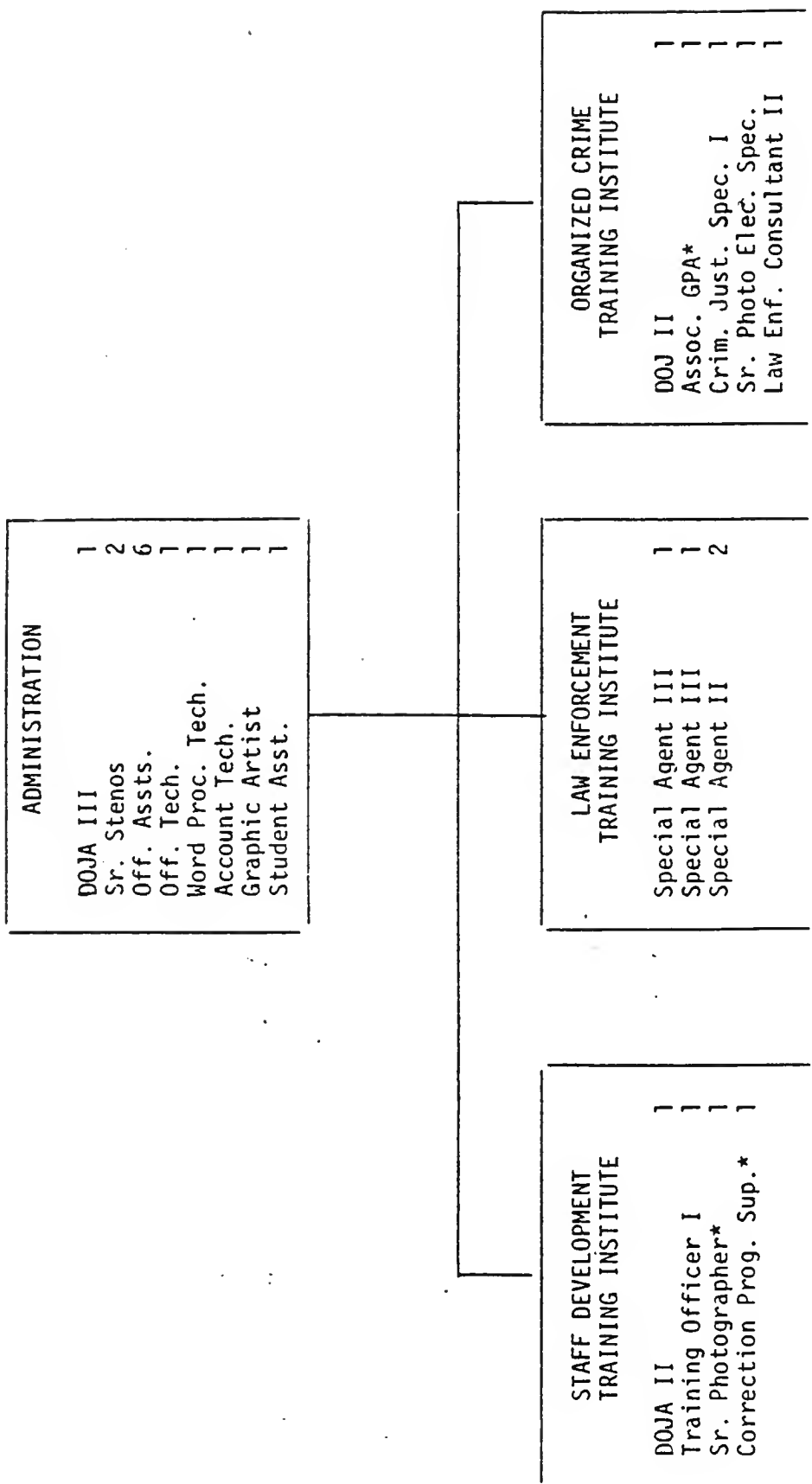
The Staff Development Training Institute (SDTI), comprised of four persons, provides internal Department training. This includes legal training, technical and analytical training, training for supervisors and managers, and secretarial and clerical training.

For example, SDTI is now presenting a series of 24-hour POST approved training courses for the Investigative and Enforcement Branch special agents.

SDTI is also working with the legal divisions to develop and present management training for legal managers.

The Law Enforcement Training Institute (LETI), comprised of four special agents, specializes in training aimed at narcotics investigations. However, it also administers the Modular Training program. Modular training is presented onsite at the more remotely located agencies. The course consists of a number of 8-hour modules, such as report writing, officer survival, laws of arrest, search and seizure, etc. Police administrators can choose the course content, and LETI will deliver the course on the days and during the hours selected by the client.

The Organized Crime Training Institute (OCTI), comprised of five persons, presents courses oriented toward control of organized crime. Courses include Data Collector, Data Analyst, Specialized Surveillance Equipment, Fencing Investigation, Gambling Investigation, and others. Although these courses were designed for intelligence investigators, they contain information which is of value to other investigators; therefore, investigators other than those assigned exclusively to organized crime do attend.



*Training & Development Assignments

CURRENT ACTIVITIES

The Law Enforcement Training Institute and Organized Crime Training Institute are currently presenting approximately 30 courses to members of local law enforcement agencies. Approximately 74% of these courses are presented onsite.

During 1979/80, we will present a total of 144 classes, 5,600 classroom hours, to 3,000 students.

FUTURE ACTIVITIES

During 1980/81, we plan to develop and present three additional POST certified courses for local law enforcement. They are: Investigation of Crimes Against the Aged, Cargo Security, and Records Management. Other OCTI and LETI programs will continue. We plan 169 presentations, 5,970 classroom hours for 3,350 students.

In addition to its continuing programs, SDTI will complete development of the management training program for top management of the legal divisions.

SDTI will continue its long-range management development program for the Bureau of Forensic Sciences.

SUMMARY

During 1979/80, the Training Center will provide POST certified training to more than 3,000 local law enforcement officers. The total cost of this program is \$1,107,643.

We estimate that other units within the Division will provide training for approximately 15,000 students during 1979/80.

Houghton: Here's the emergency council agenda.* Is that what you're asking me about?

Sharp: Yes.

Houghton: [pause] Governor Reagan called a meeting of the emergency council. Yes, here's one. These have agendas on them and things like that. [pause] Office of Emergency Services, which the council was part of.

##

Sharp: Now, what was the California Emergency Council?

Houghton: The governor's council room is where we met. I went through these minutes. I'll see if there's something I underlined on it that I felt was important. Yes, here was part of this council that I remember and would have some interest in: emergency communications. It deals with the voice-secure emergency radio system for law enforcement and state officials, which would be vital in an emergency of any kind, communication resources, CRACLE (that was the law enforcement communication system), establishing inventories, technical needs, equipment needs.**

It says here, "development of a plan that will provide direction to departments submitting communications applications to CCCJ and guidance to the council in approving applications."***

In other words, what that says is that if LAPD or any other department was requesting federal money for upgrading communications, that communications had to fit into the emergency service or it would not get the grant. That's really what that's saying. That's where I would have been mostly interested.

I see Ellingwood's name here.

Sharp: Who were some of the other people that were present? Where did they come from? I'm wondering about the composition of the council.

*See following pages for minutes of one of the meetings which Mr. Houghton attended of the California Emergency Council. Before 1972 the council was called the California Disaster Council.

**CRACLE stood for Communications Resource Assessment of California Law Enforcement.

***Houghton was reading from p. 6 of these minutes; see p. 39f.

Minutes of Meeting

CALIFORNIA EMERGENCY COUNCIL

Governor's Council Room
State Capitol
Sacramento, California

March 22, 1973

The meeting of the California Emergency Council was called to order at 10:10 a.m. by Lieutenant Governor Ed Reinecke, who had been designated by the Governor as Acting Chairman.

I. ROLL CALL AND OPENING REMARKS

Members

Present: Governor Ronald Reagan (afternoon session only)
Lieutenant Governor Ed Reinecke, Acting Chairman
Herbert E. Ellingwood, alternate for Governor Reagan for
the morning session and Acting Chairman for a portion of
the morning session
Robert A. Houghton, alternate for Attorney General
Evelle J. Younger
John B. Whitney -- Representative, City Governments
John T. Conlan -- Representative, County Governments
Richard H. Houts -- Representative, Fire Services
Michael N. Canlis -- Representative, Law Enforcement
Bryce J. Torrence -- Representative, American Red Cross
James E. Whitmore -- Representative, State Senate
Jim Keysor -- Representative, Speaker of the Assembly

Members

Absent: none

Others

Present: H. R. Temple, Jr., Director, Office of Emergency Services
Robert L. Vickers, Deputy Director, OES
Richard E. Adams, Regional Manager, OES Region V
Richard G. Barrows, Chief, Fire and Rescue Division, OES
Everett F. Blizzard, Chief, Planning and Operations
Division, OES
Stephanie A. Bradfield, Information Officer, OES
Loren D. Fields, Planning Officer, OES
James T. Haigwood, Regional Manager, OES Regions I & VI
Ralph W. Hilton, Chief, Fiscal and Administrative
Division, OES
John W. Hopkins, Federal Financial Programs Officer, OES
N. B. Keller, Principal Administrative Analyst,
Legislative Budget Committee
John J. Kearns, Radiological & Intelligence Officer, OES
Gordon C. Larkin, Jr., Chief, Emergency Assistance
Programs Division, OES
Robert L. Moody, Senior Coordinator, Law Enforcement
Division, OES

Lynn E. Roberts, Regional Manager, OES Regions III & IV
Frank Rothganger, Coordinator, Utilities Division, OES
William W. Ward, Jr., Regional Manager, OES Region II
John D. Webb, Jr., Communications & Warning Officer, OES
Claudia Weinreich, Reporting Stenographer
Eva B. Laurin, Administrative Assistant, OES; Secretary

The Lieutenant Governor commended the members of the Council and the OES staff on the manner in which emergencies and other urgent situations had been handled during the past year. Although there had been numerous disasters during the year, he said he was not aware of any situations where the people did not feel emergency services had been fair and expedient and claims for reimbursable damages properly and justly met. He did urge the Council and staff, in interpreting the definition of disaster, to stress those aspects of emergencies which concern public safety for the citizens of California, which he considered the most important job of government. He cautioned against too great involvement with economic emergencies, which tend to become more political in nature.

II. REGULAR BUSINESS

A. Approval of Minutes of Previous Meeting

The Minutes of the meeting of the California Emergency Council held on March 30, 1972, having been distributed to the members, and there being no corrections or additions, the Minutes were approved as submitted.

B. Accrediting of Local Disaster Councils

The Chairman reported that, since the last Council meeting, two cities had passed and filed the necessary ordinances and resolutions to establish the legal basis for their emergency organizations, in accordance with Section 8612 of the California Emergency Services Act, and it was recommended by the staff that these be accredited.

Motion 1: It was moved by Sheriff Canlis, seconded by Chief Houts, and unanimously carried,

That the disaster councils established by the following cities be certified by the California Emergency Council as "accredited disaster council" organizations in accordance with Section 8579 of the California Emergency Services Act:

City of Hawaiian Gardens (Los Angeles County)
City of Waterford (Stanislaus County)

III. REPORT OF THE DIRECTOR

A. 1973-74 Budget -- Office of Emergency Services

Each member of the Council was provided with a copy of the items pertaining to OES in the Governor's Budget for 1973-74, together with a copy of the portion of the Legislative Analyst's Analysis of the Budget pertaining to the office. There was no discussion on the budget.

B. Annual Report

1. Director Temple referred to a report which had been mailed to the members of the Council prior to the meeting. He touched on highlights of this report and indicated the staff members present would respond in detail to any questions:

Tab C - Emergency Operations: Mr. Temple mentioned actions in connection with several disasters during the past year. Mr. Larkin explained some of the reconstruction problems in connection with the San Fernando earthquake. He pointed out that damaged facilities, such as the Los Angeles Juvenile Hall, were not to be reconstructed in kind, but would be of the type required to meet modern standards and current and future needs -- far more advanced than those which were destroyed.

The Lieutenant Governor referred to comments he had made at the last meeting concerning data being obtained by high altitude overflights. He said he had recently attended a symposium on utilization of the ERTS satellite, where one of the more interesting discussions was on satellite photographs to identify flood areas, such as those in South Dakota and Iowa, as well as for advance planning. Mr. Vickers informed the members that OES was now working with NASA and Ames Laboratory on a contractual arrangement for utilization of this resource. The U-2 aircraft assistance was reported as beneficial in the Big Sur fire, and OES is looking at potential usages of such resources.

Tab D - Proclamations and Legislation: In this connection, the Director said the dam safety bill enacted in 1972 was of particular significance to OES. It requires that this office review inundation maps for the many dams in California, as well as assist in the planning for evacuation from areas below dams.

In response to a question from Chief Houts concerning the public safety agencies referred to in this bill, Mr. Temple explained that these were not defined. It will be necessary for OES to work with local governments and the particular public safety agencies which would be involved on the basis of each local situation.

In connection with other questions, Mr. Blizzard explained that there are about 1200 dams in California that come under the definition. Based on population density in the county, about 600 of these are of first priority; the other 600 must be reviewed on a case-by-case basis.

Tab E - Planning: The Director described several aspects of planning, which had been one of the major thrusts of the office during the past year. He called attention to several planning documents which were on display and offered to make copies available to any Council members who were interested.

Chief Houts posed some questions concerning the Mutual Aid Funding Feasibility Study, and Mr. Ellingwood said he would provide copies

to the members. In this connection, Sheriff Canlis pointed out that in 1972 the Legislature directed the establishment of "911" as the primary emergency telephone number for use in this state, but made no funds available. It was reported that preliminary studies are now under way, and the members would be kept advised of progress.

Tab F - Training, Exercises, and Public Information: Over 1.3 million people have viewed telecasts of "Our Active Earth," the film produced by OES, which was shown at the last Council meeting. This film has since won several awards. It has also been used by the State of Baja, which OES is helping in their development of a communication and emergency response plan. OES is now coordinating production of the film "Respond," describing the on-site assistance program, under contract with the federal Defense Civil Preparedness Agency.

Tab G - Committees and Conferences: Some additional information was provided by Mr. Temple concerning activities of OES in cooperation with the Resources Agency and various power sources in California, in anticipation of the potential energy emergency. Research and consideration is being directed toward possible use of solar and geothermal energy sources, as well as the supply of existing fuels.

Tab H - Federal Financial Programs: Contributions to local government through these programs continue to provide a wide variety of items, including such major items as aircraft and helicopters, for very little money.

Tab K - Equipment: The Director reported that the major project in this category -- the prepositioning of law enforcement equipment obtained through the Council on Criminal Justice -- had been virtually completed.

There was very little discussion of Tab I - Emergency Communications and Warning; Tab J - Utilities; and Tab L - Community Shelter Planning and Fallout Shelter Survey and Advisory Service.

2. Earthquake Response Plan

Mr. Fields described the project, under a contract with the federal Office of Emergency Preparedness, to assist local governments within the nine San Francisco Bay Area counties in the development of specific response plans and identification of actions that would be appropriate under each of the several contingencies that could occur as a result of a major earthquake. The project is based on a study by OEP and the National Oceanic and Atmospheric Administration, which assessed the potential casualties, property damage, and other effects of a major earthquake along either the Hayward or San Andreas faults in this area.

He said considerable progress had been made in defining the proposed content of plans at federal, state and local level. Work is now under way on the interface with local governments in defining

the specifics of their individual plans. This phase of the project will involve nine counties, 92 cities, and hundreds of special purpose districts, as well as the resource capability of the private sector. So far, the degree of cooperation received from these many agencies has been outstanding. It is planned to initiate a similar project in Southern California later this year.

3. Governor's Earthquake Council Projects

Governor Reagan appointed the Governor's Earthquake Council in January 1972, with James G. Stearns, now Secretary of Agriculture and Services, as Chairman and the Director of OES as Vice Chairman. The First Report of the Governor's Earthquake Council was published in November 1972. Mr. Blizzard described the involvement of OES in many of the 15 recommendations included in this report, particularly those in which OES must play a leading role, such as those relating to dam safety, emergency plans, emergency operations, disaster communications, assessment of damage, and safety programs for government, business, and industry, as well as identifying and arranging for means of financing some of these activities. Copies of this report were made available to the Council members for detailed information on these recommendations and responsibilities.

In response to a question by Mr. Conlan, relating to the requirement that counties and cities include a seismic safety element in their general plans, Mr. Blizzard explained that the Governor's Earthquake Council had developed some criteria for the seismic safety element, but the Council on Intergovernmental Relations had been charged by the Legislature with responsibility for the final guidelines. That Council plans to meet with local planners in July of this year with its draft material.

4. Peacetime Nuclear Safety Training

Mr. Kearns reported that the potential energy crisis in the state and nation had stimulated expansion of the radiological defense training program of OES. As a result of the increasing use of radioactive isotopes in industry, medicine, and research, the federally-funded contract under which this program is conducted has been modified to permit inclusion of radiation accident training. The need for this training is demonstrated by the facts that there were over 800,000 shipments of radioactive materials in 1971 and that the use is increasing.

In cooperation with the State Bureau of Radiological Health, which has the legal responsibility for licensing and regulating the use of radiological materials, other state agencies, and the AEC, a five-day course has been developed by OES to train public safety personnel to control such situations pending arrival of experts.

Mr. Kearns indicated that the wartime emergency courses were also being continued, and they were moving toward the goal of having

knowledgeable people available and capable of reacting properly in any type of emergency involving radioactive material.

Sheriff Canlis recommended that OES explore the possibility of inclusion of such training in the program of the Commission on Peace Officer Standards and Training (POST), so it would reach law enforcement agencies statewide.

5. Emergency Communications

Mr. Webb explained the proposal for a California Law Enforcement Emergency Communications System, which is designed to provide a voice-secure emergency radio system primarily for law enforcement agencies and state agencies that have mutual aid responsibilities. The state's public safety microwave system would be upgraded to provide for interconnection. To date, CCCJ has tentatively approved the formal application, and a request for an appropriation of matching funds by the State is before the Legislature. This would replace the present system, which is extremely limited both in capacity and coverage. It is proposed to provide the basic connective system and make it available to all counties. Counties and cities would have to buy their own equipment to tie into the system, but the State would provide specifications. Additional information will be available if this proposal is approved by CCCJ and the Legislature.

Another project in which the Communications Section is involved is the Communications Resource Assessment of California Law Enforcement (CRACLE). This includes an operational inventory of all systems within the state; a determination of requirements and identification of deficiencies; and development of a plan that will provide direction to departments submitting communications applications to CCCJ and guidance to the Council in approving applications.

IV. OTHER BUSINESS

At Mr. Ellingwood's request, Director Temple gave a rather detailed explanation of the eucalyptus tree problem in the Oakland - Berkeley hills, which has recently received a great deal of publicity. It has been estimated by forestry experts that, as a result of the prolonged freeze in December 1972 - January 1973, some two million trees were killed on approximately 2500 acres. All but about 600 acres is public property. It has since been ascertained that the fuel content of the area, including dead and dying trees, slash, and bark, has reached the point where it creates a major fire hazard.

The Division of Forestry made overflights to ascertain the perimeter of the kill area, and many state and local agencies have been studying the problem and appropriate courses of action. Mr. Temple indicated he would submit his recommendations to the Governor just as soon as various reports were completed.

Mr. Barrows reported that he and his staff had been working with the fire services in the East Bay area to assure that any necessary mutual

aid response would be as fast and effective as possible in the event of a fire in this area, in view of the present concentration of highly flammable fuel and the large number of homes in the area. However, he also pointed out that there are other areas in the state with equal or higher amounts of flammable fuel on the basis of tons per acre.

Before the Council recessed for luncheon, Mr. Ellingwood commended Mr. Temple as a prime mover in the earthquake response planning area and in connection with the procurement and prepositioning of emergency equipment; he said the Governor and his staff took great pride in Mr. Temple's accomplishments.

Governor Reagan met with the Council after lunch for a brief discussion. He thanked the members of the Council for their services and contributions in making California one of the leading states in the area of disaster planning and preparedness.

V. ADJOURNMENT

There being no further business, the meeting was adjourned at 2:05 p.m.

EVA BAILEY LAURIN
Secretary

Houghton: Okay, I was there for Younger. John B. Whitney was a representative of city governments. Don't ask me what he was. [John T.] Conlan was a representative of county governments. Apparently they were on some county and city organizations. [Richard H.] Houts represented the fire service. State, I would imagine. [Michael N.] Canlis was a sheriff. (It says representing law enforcement.) Then [Bryce J.] Torrence was from the Red Cross. [James E.] Whitmore was from the state senate. [Jim] Keysor represented the Speaker of the Assembly.

That was the committee. Others present were [H.R.] Temple [Jr.], [Robert L.] Vickers, the deputy director of OES (Office of Emergency Services), Richard [E.] Adams, regional manager of OES, Region V. These were broken down as to the services their agency or section specifically concerned. [Richard G.] Barrows, chief of Fire and Rescue Division, same outfit [OES]. Everett [F.] Blizzard, Planning and Operations Division. You can have this if you want it. I don't think I care about that. That gives you some idea who they were, anyway.

Sharp: I wanted to get a note on that.

The Governor's Select Committee on Law Enforcement Problems

Sharp: I want us to move on and talk about the Governor's Select Committee on Law Enforcement Problems.*

Houghton: That was a good committee, by the way. I do remember quite bit about that one. This is the one you sent me the information on. Thanks to you for jogging my memory. Particularly I remember the discussions.

Sharp: We got this committee report from the Hoover--.**

*Along with Houghton on the steering committee for the Governor's Select Committee on Law Enforcement Problems were Edwin Meese III, R. Thomas Allen, Earl Brian, Herbert E. Ellingwood, James D. Garbolino, Edward Hinz, Jr., Norman B. Livermore, Jr., Verne Orr, James G. Stearns, Edwin W. Thomas, Richard K. Turner, and Lewis K. Uhler. On the actual committee were Edwin M. Osborne, Raymond C. Brown, Edward L. Ehlers, Vernon Grose, and Anthony L. Palumbo.

**This committee report was entitled, "Controlling Crime in California," and was submitted to the California legislature by Governor Reagan in August 1973.

Houghton: Oh, well, then you know more than I do about it.

Sharp: We know the paper part. But I'd like to have your recollections.

Houghton: My recollections are that this was a committee chaired by Meese, if I remember right.

Sharp: All these other agency secretaries, Earl Brian, from Health and Welfare.

Houghton: Yes, I remember Brian. He was a brilliant man, a boy wonder. Remember him? He was a genius.

Sharp: Mr. Livermore, Mr. Orr and--

Houghton: Oh, Verne was a pain. He really watched that money, which you couldn't blame him for. It was his job.

Sharp: And Frank Walton.

Houghton: Frank Walton. I don't remember him.

Sharp: From Business and Transportation?

Houghton: Oh, I probably do.

Sharp: What was the work of the committee?

Houghton: I don't know whether it says here, but it probably does. You probably have the objectives. As I remember the committee, it was to discuss ways and means of improving the criminal justice system, not just law enforcement. It was to take into consideration those things which members of the committee, from whatever sources, felt were critical problems in the total system of criminal justice. That included law enforcement, district attorneys, probation offices, prison systems, courts, the whole works.

I can't give you any specifics, except I know that Mr. Meese was pretty well prepared on these things. He had a pretty good idea of those areas that he felt concern--I know many of the others did too. But I remember Eddie particularly--he felt there were areas with which the group should concern itself, and of course, others did too. It was a kind of a conference type, where Eddie would use the blackboard and list problems for discussion and the group would make recommendations of things that would alleviate them.

Houghton: There were a great number of things discussed. We had documents to read, put out by different bar associations, state and federal, and various associations of probation officers. A lot of documents in these areas, most of them, if I remember right, had recommendations in those particular areas that the experts in those fields felt were of paramount importance.

There were a multitude of problems brought up. So many--to the point that we had to finally narrow it down and take the most critical, the most doable. These became the kinds of guidelines we used to come down to some final considerations.

That's about as far as I go. I'm hazy on whether the committee came up with group recommendations or by individual effort, such as, "Houghton, if you think such and such a thing is very important in law enforcement, you draw up proposed legislation to change it." I don't remember that any specific assignments were given that way. Although they could have been. They very well could have been because Mr. Meese is very good at delegating. So, I can't answer your question.

Sharp: So, essentially these would have been suggestions for legislation?*

Houghton: Oh, yes. Many of them are legislation. There are some in here that are not. [pause] Such as proposed organization changes, improvement in communications, procedures and responsibilities.

Sharp: Some of these look to me like a toughening.

Houghton: Oh, they are. You've got to remember that Reagan, himself, I guess, and it certainly affected his staff, felt that many things that were going on in the way of court decisions and in the way of court procedures were negative, were not beneficial to society. I can point some of these out for you.

Sharp: Which ones?

Houghton: Mandatory prison sentences, use of guns, and changing search and seizure rules--etc. They wanted those things all toughened up.

*The major recommendations of the Governor's Select Committee on Law Enforcement Problems, as they appeared on pp. 15-19 of the committee's report entitled, "Controlling Crime in California," concerned topics such as the organization and management of the criminal justice system; the assistance of local law enforcement by the Office of Emergency Services and the development of specialists trained in disarming explosives, sniper suppression, use of non-lethal riot control gas, and other functions; the standardization and further training of private police; citizen participation in crime control; mandatory

Houghton: This one deals with prosecution procedures, not law. Strict standards of negotiating pleas, plea bargaining. You know what plea bargaining is. This proposes that the district attorney, the defense counsel and the courts get together and decide on some uniform criteria for plea bargaining cases. As it was then, and I suspect now, it's pretty much up to whoever's involved.

Reciprocal disclosure. I don't know whether this has passed. But no question about it, if it hasn't it should.

Sharp: What about the exclusionary rule?

Houghton: Sure, it should be altered. That was in here somewhere too.

Sharp: It's at the bottom of page seventeen. Abolishing the exclusionary rule. You probably would have had some special feelings on that.

Houghton: I did and I do. The present rule does not redound to the benefit of society, rather to the benefit of the criminal. I don't know that you want to take the time, but if you go back and read the to-date decisions on this, you'll find that evidence which would be conclusive proof of guilt can be eliminated because of some technical search and seizure reason. The argument I would put forward is if you're after truth--and that piece of evidence could prove guilt, truth is lost. If the evidence was improperly secured--punish the officer or the city who employed him. Sue him. Fine him. Send him to jail. But don't let the crook walk the street. The law is supposed to be designed to find the truth.

If I asked you how to get to the Pacific Ocean and you said, "You get on Wilshire Boulevard and you keep right on driving until you fall in the water," and I did it, I would say that your information was pretty good. You told me right. So if you tell me that Joe Jim is a pusher, and you tell me he's got the "stuff" stashed on his front porch, and I go find it, I can't use it until I tell him who told me. It's silly. It doesn't do anything, in my opinion. So, yes, you're right. I would be adamant about that.

Sharp: Was there a range of opinion on the steering committee or even the working members--?

Houghton: I can't speak for the members. But I can speak for the committee. There were some who were not as vehement as I am about that. There were some who viewed that as less important than other things in the judicial system. I can't remember any strong

prison sentence for criminals using guns and selling narcotics; abolishing of the exclusionary rule; adoption of strict standards for negotiated pleas and other changes in the jury trial system; changes in sentencing and corrections, such as more uniform sentencing and mandatory prison sentences, and the repeal of the prison subsidy.

- Houghton: opinions where there was any debate between members of any magnitude. There might have been some, "Do you mean this, or do you mean that," sort of conversation. But, you know, that's a long time ago.
- Sharp: If you look at all the recommendations together, a sort of summary, the whole thing, the sum of them together, it looks like an effort on the part of the Reagan administration in the second term to give a program for toughening law enforcement.
- Houghton: I would have to agree. I would have to agree that inasmuch as this does reflect Mr. Reagan's personal views, and if that is true, then I think the result you've analyzed is correct. I think there was, and is now, in many areas still a strong feeling that the money spent and the effort spent in the general field of criminal justice is--that people aren't getting their money's worth, period.
- Sharp: What about the Public Safety Agency, which was this new umbrella idea? Actually Governor [Edmund G.] Brown [Sr.] had had an idea for a Public Safety Agency, so it wasn't a totally new idea.
- Houghton: No, no, I am sure it wasn't.
- Sharp: It was one of the old ideas that was coming around with people trying to suggest it again. You had some ideas about that, about the Division of Law Enforcement and the Public Safety Agency.
- Houghton: We discussed at length in this committee meeting why the Division of Law Enforcement should not be in a Public Safety Agency. The attorneys general didn't want to give it up. There were many reasons, many of them were legal, some for power, some political.

If you set all these existing agencies under one super-head, the coordination job between them would be monumental. The weakness of that argument is that those agencies do exist and the need for coordination still exists. Without having some single head, each has to independently coordinate with the other. It makes it kind of a geometric problem rather than arithmetic.

Comments on the California Council on Criminal Justice

Sharp: I understood that the work of the committee was funded by the CCCJ, which brings up really where we started. That is the issue of the California Council on Criminal Justice and the work that it supported, paid for.

Houghton: It didn't pay for any of it.

Sharp: Well, the LEAA [Law Enforcement Assistance Administration] federal funds did. But it was the CCCJ that decided pretty much what got funded and what didn't.

Houghton: Within federal guidelines, right.

Sharp: I wondered what sort of atmosphere and attitude the CCCJ might have had about the variety of programs, from what it was trying to do or not trying to do and what sort of perspective it had.

Houghton: Mine would not be anything other than an observation. I should think [Anthony L.] Palumbo would fill you in on this. My personal observation was that many of the grants that were given were given on a political basis. Central rural areas of California were neglected for some time; that's an impression--I couldn't support it.

One of the observations which I'm sure is true was that part of each grant had to identify the objectives of whatever programs it was building. Then it had to, after a certain period, say a year, it could have been two, report back an analysis of success. I resented that. I told Eddie [Meese], and told everybody, "Listen, it's ridiculous to have the agency that gets the money do their own 'in-house' review. It's silly. You don't think they're going to say, 'Oh, we pooped out on that. We didn't get anybody sober,'" or "'We've failed in our objectives--please grant us more money.'"

I recommended that each grant apply for sufficient money to have an independent agency review their program at the end of a certain time so that CCCJ would have at least an independent evaluation, such as it was, rather than an in-house look at it.

At the end, Meese agreed. I offered when I retired: "I'll take a year's contract myself and review certain ones for you." I got the contract. Then [Edmund G.] Brown [Jr.] came in and nullified the contract. So I don't know whether they finally did it or not. But that bothered me about the system.

- Houghton: I don't know what else I can tell you. I know that near the end it wasn't just CCCJ that I had to work with. It was some of the representatives of LEAA too that were out here.
- Sharp: The regional administration.
- Houghton: I guess, yes. Homer Broom and some of his people.
- Sharp: Tom Clark was a regional administrator for a while.
- Houghton: I never worked with him.
- Sharp: Did you connect up with the LEAA in Washington at all? Was it a matter of somehow having a relationship with--
- Houghton: Only on major federal programs, such as SEARCH. There what little contact I had, as I told you, mainly was through Bud [Orville J.] Hawkins, working for the Division of Law Enforcement. Occasionally I would go to some meeting where he wanted me there for some reason. There would be some of the top LEAA people discussing the money for SEARCH and their selection of programs and so on.
- Sharp: Talking about the LEAA brings up the federal relationship as a whole. I'm wondering what the relationship was between the state Department of Justice and, say, the FBI, the CIA, or the federal Department of Justice. You emphasize better coordination of information and communication. Did that also extend somewhat to cooperation with the FBI, for example?
- Houghton: Efforts are always under way, ever since I can remember, to improve coordination with the FBI. Now, you don't deal with the CIA. Their duties and responsibilities are not local at all. So you don't have much to do with them. I did on one case. But that was an isolated instance.

But you're dealing with the FBI quite a bit. Now, that depends on who's director and what his policies are. For a long time Hoover would not allow free and open communication with all local police agencies. Our cooperation with the FBI was on a personal basis. If you knew somebody and they knew you and you had some problem in which they were related, you could get coordination and cooperation. If you didn't, you couldn't.

I understand now that it's much better with Webster. My relationship up there was satisfactory. I wouldn't say full coordination. I remember on the SLA [Symbionese Liberation Army]-Hearst thing, we had our intelligence operating on it. They had

Houghton: their intelligence. Oakland had their intelligence. We coordinated with Oakland pretty well. But according to my people, the FBI coordination was not that good. You can understand it because the FBI had jurisdiction at that time. Oakland, because that's where the original crime occurred from. We, because we had intelligence operation, and a good one, by the way. So there were some problems, but nothing that was earthshaking or anything like that, if that's what you're after.

An Aside on the Prisoners' Rights and Death Penalty Issues

Sharp: This is a real general question. There were different currents and attitudes that might have touched you, touched your work as a police officer, or within the Department of Justice. There are two that come to mind. One is ideas about the death penalty. They went back and forth quite a bit from Mr. Brown Sr.'s administration through to the Reagan administration; there was quite a bit of sentiment pushing in one way or the other.

The other one is prisoners' rights. There was, not a movement, but a feeling, especially during Mr. Reagan's administration, that there should be an expansion of prisoners' rights--use of the mails, etc.

Houghton: You should really talk to Ray Procunier about that.

Sharp: We did.

Houghton: What did Ray say?

Sharp: He commented that they were important issues. But I was just wondering from your perspective--

Houghton: I don't really remember anything of any importance. My memory doesn't bring anything immediately about specific prisoner rights. You're right, I suspect, in your assumption. I would not support increasing prisoner rights other than the necessities of life and those things which assist in prison management. But there are a lot of things that I personally would oppose.

I am an advocate of the death penalty on carefully selected cases. I think it's a travesty--. Take the Hillside strangler [Bono Bianki]. I worked on that case as a consultant to the department. He was convicted of eight of ten brutal murders. And

Houghton: he gets life imprisonment. Something's radically wrong. If the death penalty is morally wrong, you should eliminate executions altogether. But I'm afraid it's political as well. And that I'd like to rule out.

So the question, as far as I'm concerned, is the moral issue. If someone commits a heinous crime, such as the Hillside strangler, or Sirhan Sirhan, or some of the others; showing an absolute total disregard for human life, that behavior is certainly eligible for the death penalty. And there's only about six specific criminal acts in the California Penal Code which are eligible for the death penalty. I'm sorry, I am for the death penalty. That may shock your moral principles. But that's the way I feel about it.

Sharp: No, it doesn't.

It really didn't enter into your work at all then in the department?

Houghton: No, No.

Project Safer California

Sharp: The last topic is the Project Safer California, which was 1974. You were on Committee Two, which was the Criminal Justice Information and Communications System committee. I wonder if you remember any of the recommendations?

Houghton: I knew you were going to ask me that. I've got something on that and I'm having a tough time even reading my notes. I remember sitting in the sessions. And I remember Walt [Walter P.] Mendoza was on my committee. Wasn't he? He was on technical systems design.

Sharp: He was on your committee.

Houghton: Yes. We had, I think, Mendoza, [Victor] Riesau, [James] Smith, [Lawrence] Bennett, [Seth] Thomas, and [Art] McDole, right?*

*Walter P. Mendoza was director of law enforcement, Consolidated Data Center, at the state Department of Justice; Victor Riesau was with the Technical Services Department in the Los Angeles Sheriff's Office; James Smith was a judge of the Municipal Court in Westminster, California; Lawrence Bennett was assistant director of research at the state Department of Corrections; Seth Thomas was an assistant director in the state Department of Justice; Art McDole was director of communications for Monterey County. Other committee members held positions with Pacific Telephone, the San Francisco Police Department, the California assembly, and various city and county agencies throughout California.

Sharp: Yes.

Houghton: Well, I honestly can't remember. I know the kinds of areas we covered.

I wish I could think of the name of the system we wanted.* It was a system whereby we could trace or follow all arrestees through the criminal justice system using a computer. Every agency had to report the disposition of every case they handled. It went all the way through everything. That was, I'm sure, one of the things we discussed and proposed.

##

Houghton: I don't think I can be of much help to you. I'm pretty sure I know the kind of thing we discussed and all. This was something I believe was sponsored by CCCJ [California Council on Criminal Justice] itself. It was a massive effort toward coordination of all kinds of problems in law enforcement. The committee dealt with computer functioning primarily. You can tell by the titles here. Walt [Mendoza] would talk about the technical equipment end of it. What it was capable of doing, what its potential may be, what's its future. Riesau was an expert on crime report information.

Sharp: Would this committee, then, come up with recommendations for legislation?

Houghton: I'm sure that it was an open area to discuss what could be done, what should be done. And I'm sure that some of the other committees must have touched on legislation.

Sharp: The idea of having a computer system that would collect all the data about a given individual, a person who was arrested, the reason for that would be strengthening a possible conviction?

Houghton: Oh, no. It had nothing to do with conviction. Let me give you an example, a couple of them. Let's say the police arrest a man with probable cause for burglary, whatever it was. They arrest him. They report in the computer: "We arrested Jimmy Jones." They have forty-eight hours to get a complaint. Let's say in Jimmy Jones's case the arrest is reported and they don't have

*Houghton recalled later that this system was called OBTS [Offender Based Transaction System].

Houghton: sufficient information or evidence to seek a complaint. So they kick him out. That's reported. "Jimmy Jones arrested on the tenth, released on the thirteenth. No complaint, insufficient evidence."

Okay, that's in Jimmy Jones's record, which is nothing. It means he was picked up and they couldn't do anything about it. Probably innocent. You'd have to assume he's innocent on that kind of statement: "Jimmy Jones arrested. District attorney refuses complaint based on insufficient information." That's in the file. That tells you what the district attorney is doing, the precinct that got the case, and that they got a kick-out. The district attorney says, "We can't prosecute him." That goes in the file and that's the end of it. He's kicked out. You now know what happened to that arrest.

Stopping right there, if a department shows a high ratio of arrests without seeking complaints, they're making lousy arrests. They're picking up people without sufficient information. This gives an administrator an opportunity to say, "I've got to look at our probable cause arrests or our follow-up investigations. Too many arrests are being made in which no complaint is filed."

The district attorney refuses a complaint. It gives the local district attorney an opportunity to evaluate his issuing deputies, "What kind of cases are you kicking out [refusing to issue a criminal complaint]? How much evidence are you looking for?" It gives him an administrative tool, right?

Now they issue a complaint on Jimmy Jones. "Kicked out at preliminary hearing." Say, it's a felony. It means that the court thought there wasn't probable cause to hold him over for trial. That's all that means. That gives somebody, the public, or somebody, an opportunity to say, "What does that judge want for probable cause? If the district attorney thought there was probable cause and issued, how come he doesn't?" There's something to look at there.

Bound over is the next one. Bound over for trial. It goes to say, Division Five of Superior Court. Let's say then it shows appearance date, seven continuances. It takes a year to go to trial. Why? How many of those were when the lawyer said, "I didn't have time," or "He got a new lawyer," or, "I've been sick." What are the reasons? Every time the judge has to give a reason for the continuance. That's all in the "hopper."

Houghton: That raises this question-- Why are there so many continuances of cases? What's causing it? Is it the judge? Is it the attorneys? Is it the calendar? What's causing this big problem with continuances so that Jim Jones sits in the county jail for a year, for God's sake?

Or he makes bail. The bail statistic is in the record. Are blacks getting higher bail than whites? Are bails too high? Too low?, etc. You know what's going on in the system.

Say Jones goes to trial and is found not guilty. Jury trial, no jury? If it's a court trial, the court's got to state reasons for his decision--insufficient evidence, didn't believe him, cops were bums, whatever he thinks. It gives you an idea of how that judge is thinking. You know there's a big hue and cry on certain elements of the society to keep records on judges. Is this judge to the left or the right? A hanging judge? Whatever he is. This gives you the data that you can go to him and say, "You handled seventeen felony cases last month and you kicked out sixteen of them." "One of them you gave a sentence--the rest you dismissed."

Jones is convicted and the judge gives him a sentence. You can record the sentence. He is given probation. How long he is on probation. Has he violated it? All this is part of the record.

What I'm saying is that that provides the administrator and the public a capability to know what the hell is going on in our system. By data out of your computer you can follow a single case, or selected cases--burglaries, rapes, etc. Whatever you want to look at is in your computer. And you can analyse how the system is processing these and where the weaknesses of the system are.

Then he goes to prison, same thing. Conduct? When is he released? How many parole hearings do you have? All that goes into the computer. So you've got a complete history of what happens to Jones through the entire system. It lends itself as a tool for examination of the system, effectiveness, for weaknesses of the system, for administrative inspection. Just a ton of evaluation data.

It has nothing to do with convictions at all. Nothing. The evidence still puts him there and people make decisions all the way up. So that's not it. It has nothing to do with anything

Houghton: other than a method of examining systems. Now, you may think that's a horrible thing. But until we know where the mistakes are in our system, where its weaknesses are, we cannot intelligently make improvements.

I have another feeling that a lot of people don't have. We call ourselves a criminal justice system. That includes all of us. I don't think we're a system at all. We are a series of functions that handle the same client. That's all we are.

Sharp: They're not interrelated really.

Houghton: They are interrelated. But it's not a system--for example, the district attorney can make a decision that because of the case load in the courts, we are not going to issue complaints against anybody carrying less than an ounce of heroin, right? What does that do? That means that the police don't arrest them. They have got to tell their policemen, "Don't arrest them unless they've got more than an ounce." That affects the enforcement policy on the street.

The court says to the district attorney, "Don't issue on less than an ounce because we're too crowded." The court does that. That affects the DA's policy and the police policies, right? The police decide they're going to have a "round up on," say, vagrants, just to use a term. Or prostitution--whatever. So they put a big purge on and they arrest fifty girls on Washington and Adams Boulevards. It swamps the court. The court doesn't know it's coming. It just screws up the court system. Screws up the city attorney's system. Every one of those agencies makes decisions that impact on every other one. That's why I say it isn't a system.

I say that there should be some overview group. I'm not trying to say what structure the "overseers" should have, other than if the courts decide on a policy that impacts on any other agency they have to at least be required to notify and give their reasons for what decisions they are making so somebody else knows what the hell is going on and how it affects their functions.

This system of following somebody through (OBTS), to answer your question, is no, it has nothing to do with convictions or anything else. It has to do with a technique and a method of evaluation of the system, which I think is needed.

Sharp: That gets back to, perhaps, where you started and the idea of a plan.

Houghton: Yes, right. If we said we're going to do this, first we're going to have these agencies contribute and we're going to use this format. We're going to test it out here. Evaluate one or more agencies. It may take you a few years to gather enough data to properly draw valid conclusions and make sound adjustments.

You don't do those things without a lot of help, a lot of talent. I couldn't have done any of those things that were done if it hadn't been for the efforts of many people.

Sharp: You filled in just exactly what we wanted. I thank you for the time.

Houghton: You sure are welcome. I hope it all works out for you. If any of this material I've got here--

Sharp: I would like to take these materials, if that's okay.*

Houghton: Yes, I have more here. Office of Emergency Services activity reports. I will never use them. I don't know why I ever saved them.

Sharp: I'd like to take those then for the files because they would help us.

Houghton: Sure. All the training activities, the authority, and the history.** To be honest, I guess it shows through that I'm not telling you any secrets.

I'm kind of proud of the three and a half years I spent up there for one reason. I left with a sense of accomplishment.

Sharp: And you really had a sense that you made some changes?

Houghton: I have that feeling.

Sharp: The first few months that you were--.

*These materials included the minutes of a meeting of the California Emergency Council held on 22 March 1973 and reproduced here as pp. 39a-g.

**Mr. Houghton donated copies of the Activity Report for the Office of Emergency Services for April, May, and July 1973, as well as California Department of Justice advanced training catalogs for July 1979-June 1980 and July 1980-June 1981. These booklets have been deposited into The Bancroft Library as materials supporting this interview.

Houghton: Oh, no question about it. You would be interested in some of the resistance too. I couldn't believe it. Here I was telling those investigators, "Look, what I want to do is make classes of investigators, one, two, three, and four. It gives you a ladder of advancement all the way up. You can become director some day if you want to be. You're going to get a raise in salary. The only thing I'm telling you is you're going to have to be able to be a skilled investigator in narcotics and crime and torts. You're going to have to improve your ability to be worthy of this."

Some of the men didn't want it. They were content with being a specialist. I just couldn't grasp that kind of argument. Here was an opportunity for advancement in a career that they had chosen. I didn't pick their career. That kind of attitude shocked me. However, after the classification was complete the men and women were very supportive.

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APPENDIX

REORGANIZATION REVIEW REPORT

I. HISTORY OF THE DIVISION OF LAW ENFORCEMENT

A. BEGINNINGS

The history of the Division of Law Enforcement began one stormy night when The San Quentin, a ship, used as a prison by the San Francisco area, broke its moorings and drifted across the bay. It lodged on a mud flat in what is now Marin County and, rather than refloat the vessel, our predecessors built a wall around what was left of the ship, and went right on using it as a prison.

In 1905, the California Legislature created a Bureau of Criminal Identification in order to utilize the rudimentary criminal records being stored in the prison. Over the years, various functions, including investigation, were added and, in 1944, the Department of Justice was created combining most state law enforcement and support activities under the leadership of the Attorney General. In the Department's early years, there were many weaknesses in the organization, resulting from the long history of independent existence of the Division's components. While, in 1962, the three bureaus (Identification and Investigation, Narcotics Enforcement and Criminal Statistics) were physically brought together and a beginning was made at developing a Division concept, internal organization of the bureaus was not modified and like functions which crossed bureau lines were not combined.

The Bureau of Criminal Identification and Investigation (CII) and the Bureau of Criminal Statistics (BCS), for instance, were information processing centers using the same basic information in their work, but they separately obtained it at different times, in different forms, and often from different local criminal justice agencies: CII obtained its disposition information from police and sheriffs departments, while BCS obtained the same information from district attorneys and courts, and the Bureau of Narcotic Enforcement developed a third source of information from its field investigations.

A similar sort of duplication existed in criminal investigative operations, performed by both CII and BNE. There were few close working relationships between the functional units of these two bureaus, and there was no provision for assignment of a narcotics agent to other than a narcotics investigation or, conversely, for special agents to be involved in the investigation of narcotics cases. Moreover, there was no procedure whereby all agents and civil investigators, regardless of assignment, could funnel criminal intelligence information to a central unit.

✓ B. THE 1967 GOVERNOR'S SURVEY ON EFFICIENCY AND COST CONTROL

In 1967, a Governor's Task Force examined the then-existing organization of the Division of Law Enforcement and concluded that it was inadequate. It proposed "a Division of

Criminal Identification and Investigation" realigned, in an integrated team approach, into two main branches, each headed by an Assistant Director. One branch, primarily engaged in direct enforcement operations through a permanent field staff, was the Investigation and Law Enforcement Branch, including the Bureau of Narcotic Enforcement, a new Bureau of Investigation (integrating both criminal and civil investigations), technical investigative services and the Organized Crime Unit. The second branch was the Criminal Identification and Information Branch, providing information on crimes and criminals, identification of missing or wanted persons and statistical reports on crime in California.

✓ C. DIVISION TASK FORCES AND REVIEW COMMITTEE

At the beginning of 1971, Attorney General Younger concluded that the basic reorganization plan enunciated by the Governor's Task Force on Efficiency and Cost Control was sound but that it required further consideration and some modification. The Director of the Division of Law Enforcement was assigned to implement the reorganization and, accordingly, he established two task forces in July of 1971. One was to deal with enforcement and investigation functions and the other was to deal with identification and information functions. The task forces' reports were then considered by a Review Committee consisting of executives of the Division itself and two of the legal divisions (Criminal and Special

Operations) of the Department. The Review Committee then developed recommendations for changes in Division operations, as follows:

1. Investigators, then assigned to the Civil Law, Criminal Law, and Special Operations Divisions would be transferred to the Bureau of Investigation, Enforcement and Investigation Branch, thus organizing all Department of Justice investigative activities under the command of the Assistant Director of that Branch.
2. A new civil service class would be established to permit reclassifying the existing 17 classes of Department of Justice investigators under one common series, (i.e., Special Agents I, II, III and IV).
3. A comprehensive training program in civil, criminal and narcotics investigation would be established for all Department of Justice investigators under the new Special Agent series.
4. Bureau of Investigation and Bureau of Narcotic Enforcement field offices would be reorganized under an overall supervisor but with division into special, criminal and narcotic investigation teams, each led by a working supervisor. Clearly defined channels of responsibility and communication between field offices and other elements of the Department of Justice, particularly the legal divisions, were to be established.

5. An Investigative Services Branch would be created to include (1) criminalistics laboratory services, (2) narcotics and drug abuse chemistry, (3) polygraph examinations, (4) latent print analysis, (5) a photo laboratory and (6) questioned document analysis; a further function of this branch will be to undertake the task of implementing the California Council on Criminal Justice's Statewide Criminalistics Laboratory System Plan.

These recommendations have been implemented in the current structure of the Division of Law Enforcement. It now includes the Office of the Director, the Identification and Information Branch, the Enforcement and Investigation Branch, the Organized Crime and Criminal Intelligence Branch, the Investigative Services Branch and the Law Enforcement Consolidated Data Center. Field offices for the investigative and narcotic enforcement functions are maintained in six major California cities. As of this date, the Investigative Services Branch operates five regional criminalistics laboratories and seven satellite laboratories located so as to serve 46 of the state's 58 counties.

D. OPERATIONAL PLAN

A Division of approximately 1,500 employees engaged in the implementation and operation of some 365 separate

programs cannot function efficiently without a well defined and clearly presented long-range operational plan. In 1972, the Director undertook to develop day-to-day operational as well as long-range plans. A team of organizational consultants from the aerospace industry was recruited and, following the directions of the executive staff of the Division assisted in developing those plans within the framework of the Division's mission:

"The mission of the Division of Law Enforcement is to provide effective support services to criminal justice agencies and individuals as required by statute or approved by the Attorney General."

The major objectives of the Division are:

1. To assist state and local criminal justice agencies in the performance of their duties, including the coordination of local law enforcement efforts;
2. To assist the Attorney General in his role as attorney for the people of the State of California and the Departments, Boards, and Commissions of the State Government;
3. To perform special tasks as directed by the Attorney General or the Governor; and
4. To develop and operate the Law Enforcement Consolidated Data Center with the view of providing pertinent information to state and local law enforcement agencies on the

criminal records, stolen property, vehicles and other data.

Divisional services are all designed to meet those major objectives. They include:

1. criminal and noncriminal identification;
2. crime information analysis;
3. criminal, civil, and narcotics investigation;
4. technical and scientific analysis;
5. crime research and statistics;
6. centralized criminal information;
7. training of local law enforcement agency personnel;
8. coordination of criminal information and interjurisdictional investigative needs of local, state, and national criminal justice agencies.

The identification of the Division's activities helps place it in a position to select its priorities, control its programs and plan for the future. The Operational Plan is expected to yield many benefits, especially in budgetary planning, by providing a constant source of information as to progress being made in individual programs. The Plan, implemented in early 1973, is a constant reminder to managers of the direction, progress, and effectiveness of their efforts toward achieving organizational goals.

A Staff Office was organized within the Director's Office to determine progress made on the programs in the Plan

and to effect modification of it as necessary. An Operational Plan Room will be developed to clearly illustrate to managers and other interested persons the PERT charts and other descriptive material of each program undertaken and underway in the Division. The Office also contains an Inspection and Control Section for determining compliance with the Plan and established policies and procedures, and investigation of serious personnel rules violations and allegations of criminal misconduct. The Staff Office is also responsible for the coordination and budgeting of all training programs within and without the Division in which personnel of the Division participate as either students or trainers.

II. CURRENT DEVELOPMENTS AND ACTIVITIES

A. ENFORCEMENT AND INVESTIGATION BRANCH

1. BUREAU OF NARCOTIC ENFORCEMENT

The Bureau of Narcotic Enforcement is now placing major emphasis on the training of local officers. State agents themselves are being selectively assigned to the investigation and apprehension of major violators (suspects engaged in substantial sale or possession of illicit drugs, smuggling operations or illicit laboratory operations). Arrests of major violators have increased dramatically since the change in emphasis began in 1971, when 32 major violators were arrested. In 1972, there were 132 major violators arrested and 453 in the first 10 months of 1973. BNE's local agency training program has the objective of improving the effectiveness of local narcotics investigators. As local agency officers become more effective, less direct assistance is required from BNE, thus allowing its agents more time to investigate major violator cases. In 1972, four classes for local officers were conducted, providing training to seventy-three investigators. Seven classes, with an enrollment of 120 local peace officers, were conducted in 1973. The last five sessions were held at the new Department of Justice Advanced Training Center facilities in Broderick, near Sacramento.

2. BUREAU OF INVESTIGATION

The responsibilities of the Bureau of Investigation include thirteen civil investigation programs and five criminal investigation programs, and agents have been cross-trained to insure full competence in both fields. As Bureau flexibility has been significantly increased, investigators are assigned to activities where the needs are greatest. Development of stronger ties between the Bureau and the legal divisions is also continuing.

B. ORGANIZED CRIME AND CRIMINAL INTELLIGENCE BRANCH

A Central Coordinating Section has been added to OCCIB to manage the Law Enforcement Intelligence Unit (LEIU), assist Regional coordinating units and develop the Interstate Organized Crime Index. The Branch is now an integral part of both state and nationwide computer-based criminal intelligence systems.

During the 1973 United Farm Workers/Teamster Labor conflict, which extended from the Coachella Valley north through the San Joaquin and Sacramento Valleys, OCCIB played a major role in coordinating law enforcement efforts. This activity permitted local sheriff's departments to receive hourly reports concerning potential conflicts and facilitated the deployment of forces in advance of trouble. In addition, the coordination OCCIB agents established between the sheriffs and district attorneys assisted in

resolving legal problems and assured the impartial application of the arrest and detention process. During this conflict, OCCIB provided a daily assessment of activities to the Attorney General for his review and evaluation.

C. IDENTIFICATION AND INFORMATION BRANCH

1. BUREAU OF IDENTIFICATION

Many of the functions historically provided by the Bureau of Identification are now automated. The Automated Firearms System and the Automated Criminal History System are good examples: The firearms data base contains reports of stolen guns and the sale of concealable weapons. Since the Spring of 1972, local law enforcement agencies have had the capability of both entering and obtaining information through direct access terminals. The Automated Criminal History System became operational in 1973. Approximately 200,000 records are presently available for remote access. By 1975, over half a million records will be in the system.

As a new service, the Bureau presently administers the Automated Stolen Vehicle System. This system replaces and is an improvement upon the program previously provided by the California Highway Patrol.

Studies are now under way evaluating the feasibility of implementing the automation of fingerprint files. In

addition to this study, the Bureau is soliciting user reactions to a plan for purging certain Bureau records. The objective of this proposal is to improve the level of service provided while minimizing cost.

Private citizens who wish to review criminal records relating to themselves in Bureau files may do so and provisions exist for the correction of errors or clarification of entries.

2. BUREAU OF CRIMINAL STATISTICS

New services provided by the Bureau of Criminal Statistics include data gathering in connection with various crime specific programs, a major offender-based transaction system and an arrest register system. Each of these constitutes a new approach to a different aspect of the criminal justice process.

3. CRIMINAL RECORDS SECURITY UNIT

As the results of legislation passed in 1972, the Criminal Records Security Unit was created to improve the security and privacy of criminal offender records. This unit is currently in the process of developing regulations for guiding all agencies in the use of these records. In addition, a training program for proper record handling is being developed.

D. INVESTIGATIVE SERVICES BRANCH

Through expansion of laboratory facilities to numerous statewide locations, the technical services provided by Investigative Services Branch have been taken to the user, as opposed to the user coming to Sacramento. Prior to 1971, the Sacramento Laboratory housed six criminalists to cover the entire state, and significant amounts of these men's time were spent away from the laboratory, either in field investigations or court testimony. Many agencies within the criminal justice system simply did not request services because of the time and distance factors or requested them only as a last resort when all other locally available investigative techniques had failed. The Branch now has five regional laboratories throughout the state providing twenty-four hour coverage.

Through the Investigative Services Branch, the Department of Justice now provides the most advanced blood grouping techniques in the United States, and the level and the service provided in this single area has solved several homicide cases. Many other new developments in the field of forensic science have been assimilated into the Branch's programs.

E. LAW ENFORCEMENT CONSOLIDATED DATA CENTER

During the Fall of 1971, the Liaison Section was created to provide systems training for the emerging Criminal

Justice Information Systems (CJIS) and to perform general liaison functions between the Division of Law Enforcement and local criminal justice agencies. Training has been given to teletype operators and dispatchers, basic police officers, investigators, and police academy instructors.

Reliable on-line data bases are now available to local law enforcement agencies through the California Law Enforcement Telecommunications System (CLETS). The data bases are: Wanted Persons System, Automated Property System, Automated Firearm System, Stolen Vehicle System, Criminal History System and Stolen Bicycle System.

F. ADVANCED TRAINING CENTER

Training under the reorganized Division of Law Enforcement began in July of 1971 when criminal intelligence classes were developed and conducted under contract by Systems Development Corporation, of Santa Monica. In March of 1972, a training officer was employed to develop the Department's own Advanced Training Center and to coordinate in-service and out-service training courses for the Department of Justice. The Advanced Training Center became operational in April of 1973. Between April and October 29th, 1,212 local and state officers attended classes at the Center.

Advanced Training Center training programs for local law enforcement agencies presently focus on the following areas: collection, analysis, and management of criminal intelligence data; narcotic investigations; technical and scientific laboratory services; protective services techniques; and utilization of surveillance equipment. Major emphasis is now on a badly-needed training program for management development within the Department of Justice.

The major in-service programs for Departmental personnel include Entry Training (480 hours classroom and 480 hours of field training in narcotic, criminal and civil investigations), Management Development, Techniques of Teaching and Conference Leading and other training required by statute (e.g. First-Aid, Driver Training and Firearms).

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Regional Oral History Office
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University of California
Berkeley, California

Government History Documentation Project
Ronald Reagan Gubernatorial Era

Jan Marinissen

"TO LET THE LEGISLATURE KNOW": PRISON ADVOCACY
AND THE AMERICAN FRIENDS SERVICE COMMITTEE IN CALIFORNIA, 1960-1983

An Interview Conducted by
Sarah Sharp
in 1983

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INTERVIEW HISTORY

"'To Let the Legislature Know': Prison Advocacy and the American Friends Service Committee in California, 1960-1983" is an oral history interview conducted with Jan Marinissen, the criminal justice secretary for the American Friends Service Committee (AFSC) in northern California since 1960. The staff of the Regional Oral History Office selected Marinissen to be interviewed as part of the Ronald Reagan Gubernatorial Era oral history project because his views on the California prison system offer a critical counterpoint to the prevailing attitudes regarding prisons and prisoners in California during the 1960s and 1970s. In this interview, the interviewer's questions to Marinissen were organized to highlight the AFSC's advocacy of changes in the state's criminal justice system, and the interviewee's own ideas and perspectives on this advocacy.

It is important that the reader of this interview understand the religious context within which the AFSC carried on its prison reform efforts. In a speech entitled "The Role of a Prison in a Changing Society," delivered in 1977 to a session of the American Correctional Association Congress (ACAC), Marinissen refers to "the Quaker tradition." As he explains, this tradition "believes in the sacredness of human life and believes that God exists in every person, however defaced, obnoxious or sometimes seemingly beyond redemption." Marinissen set the AFSC's prison work within a larger effort which the committee has made since its founding in 1917, to try to reduce conflict and tension, domestically and internationally.

In this interview and in the 1977 ACAC speech noted above, Marinissen makes it clear that he does not believe in the efficacy or even the validity of the prison system as it now exists in the United States. The AFSC opposes building any new prisons, and has worked since the 1940s to make the jails and prisons that do exist in the state more humane. Since Marinissen's work with the AFSC began, the committee has worked on legislation and projects dealing with police brutality and surveillance, the plight of released prisoners, bail reform, support for prisoner self-help movements, the establishment of mediation centers, support groups for prisoners' spouses, as well as other issues. The interviewee discusses the ways in which many of these efforts took shape during the 1960s and 1970s.

Appended to this interview is a "Brief History of Prison Work in Northern California," covering the period 1947 through 1981, which the interviewee compiled, and a "Determined Sentencing Proposal," on which the interviewee worked with the Coordinating Council of Prisoner Organizations in 1975. Marinissen protested that the "Brief History" was still in draft form and unpolished, but allowed its inclusion here because of his desire that the AFSC's criminal justice work be documented as completely as possible. A copy of Marinissen's 1977 ACAC speech has been deposited in The Bancroft Library to supplement this interview.

The single taping session occurred on 27 September 1983 in Marinissen's office at the Austin MacCormick Center in San Francisco, located near the University of California Medical Center. During the interview when Marinissen spoke about the ex-prisoners who lived at the center in the 1960s, he gestured toward the rooms, now office space for the AFSC and other organizations, to explain how the living accommodations were arranged. The interviewer sent the lightly edited transcript to the interviewee for his review, and he returned it quickly with only very minor changes.

Sarah Sharp
Interviewer-Editor

May 1985
Regional Oral History Office
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I BIOGRAPHICAL DETAILS: FROM THE NETHERLANDS TO BERKELEY

[Interview: 27 September 1983]##

Sharp: What we like to do generally is start off with just a little bit of personal background. I thought we might talk a little about you, who you are. Then we can get more into the specific issues of the American Friends Service Committee [AFSC]. First of all, could you tell me about your parents, where they came from, where you came from? We'll bring you closer to the present fairly rapidly.

JM: I was born in the Netherlands, the country where the Pilgrims came from, or where the Pilgrims stayed for many, many years. I go back there every other year or so. Some time ago I started to find out where I came from--that's your question, where do you come from. I know in the 1600s, the oral history has it that we come from Spain. Marino seems to have been our name. I don't know. That's the oral history, that somehow we escaped something. We may have escaped either the Inquisition or something like that. That's one. The other tradition has it that we are Spanish Jews, and that we split Spain.

But I begin to believe--[laughs] which is not based upon anything (you remember that Holland had always a mercenary army in those days) when we were rich, because of all the colonies, among others the Dutch East Indies, that my great-great grandfather was a Spanish soldier in the Dutch army, and that he saw a nice Dutch lady, and that's where my family came from. [laughter]

No, that was a very usual experience. There are many French names and Swiss names because of the mercenary army; soldiers being soldiers, they found themselves a Dutch girl and then they left and--. There are a couple of antecedents I'm trying to find out.

Last year, for the first time I visited in the province where my grandfather in 1713, something like that, lived. And there's a--what do you call it?

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 42.

Sharp: A plaque?

JM: A plaque built in the front of the farm wall with his initials and my great-grandmother's initials. So I visited in that province, a big farm. Trying to get closer to the truth. But I'm not hung up on it. I only spent two or three days. Just for fun.

My parents, they came from the western part of the Netherlands, and they migrated to the eastern part, the northeast. It's interesting. They spoke Dutch, I mean decent Dutch. My father came from Haarlem, like Frans Hals, the painter, where people say the best Dutch is being spoken. The reason why I mention that is when they traveled to the northeast, where they spoke a dialect, my parents were considered a little bit oddball. Usually the migration was from--

Sharp: The other way.

JM: The other way.

My father has a beautiful tenor voice. He sang frequently for the radio, but because of all of his kids, five kids, a lot of kids, he could not pursue the artistic part of his life, although he took singing lessons even when we were around. He was a representative of an Egyptian cigarette import company. That's why I started smoking really; I stole cigarettes. Egyptian cigarettes have a distinct flavor, it is not hashish, but it smells a little bit. They were always very expensive. So it was really a luxury to smoke those things. So that's what he did.

Three sisters, older--so I had four mothers. [laughter] And a brother who's younger, four years or five years, something like that. The three girls, they all played piano, but the boys, we didn't.

Sharp: Was it not expected that you would, or--?

JM: I didn't want to fiddle around with the thing. I had enough from my sisters. Terrible. It was not my cup of tea.

My parents were Christian Reformed.

Then in 1940 the war broke out, which just disrupted everything. I remember that, as a little kid, I could see the German armies. But there was no fighting. When they came in, there was no fighting. When they left, there was fighting. The first year of occupation we had to move away from our house to somewhere else in the same city, a university city, one of the oldest universities, Groningen, a state university. So we moved. We had to move. The second year of the occupation they began to take Jews away, et cetera, the whole thing.

JM: My father had always been involved in politics, and he was very much involved with labor unions--not labor unions in the American sense. You know, many of the unions are professional people.

Sharp: More like guilds?

JM: Well, no, not a guild. They were more like what they are trying to attempt to do in America, too, more secretarial people, the kind of clerical people.

During the occupation he was involved in the underground political movement, in print shops, where they printed identification cards and ration books and then to burglarize them.

My oldest sister got married in the meantime. Her husband was involved in the underground in trying to locate the--He was hidden in our house, because they had discovered that he was involved, so he was hidden. We became the distribution center of identification cards and ration books and all of that.

My other sister was a courier. She was on a bicycle going from one province to another province. I was the person who distributed the ration books to the Jews who I knew were hidden in different areas. Then we had another person hidden in our house who was supposed to be working in Germany. Many of our friends ended up being in prisons or jails or concentration camps.

I finished my schooling off and on. [laughs] You know, most of the schools were occupied by the Germans. So I finished--let's see, when did I finish? In '47?

Then I went to England for half a year on a farm.

There was a draft in the Netherlands, because the colony Indonesia wanted to become independent. Dutch soldiers were sent there. I was sent there. I had a tremendous struggle, because religiously I didn't feel I should be going. But I didn't get support from the churches. The denomination my parents belonged to, I didn't get any support there. My parents were not familiar with the pacifist movement, because that was not a part of their tradition. And I was unable really to link myself up with that tradition.

The first struggle began when they wanted to have me become an officer, take officer's training. I said, "No, I'm not so sure that I'm willing to take responsibility for what I'm doing, let alone--"

Sharp: Others.

JM: "--let alone for others." "All right, you go to Indonesia."

JM: So then I had a lot of mixed feelings.

As a kid I always had ear trouble. There's a genetic defect in my family. It runs through the whole family. The left ear. And my left ear began to bother me. So they put me away from the regular service into the intelligence unit.

There I got into a big fight. [whistles] Because they were like every intelligence unit of any organization, they beat the hell out of the people, torture and all that. When I saw that that was going on, I went the regular route, lieutenant, captain, chaplain. I didn't get anywhere. So finally they wanted to get rid of me. So they sent me back to the Netherlands.

Sharp: You talked about your religious convictions, religious feelings about war. Where did all that come from? Why did you start feeling that way?

JM: I don't know.

Sharp: Was your brother feeling that way, too?

JM: He was a little kid. He was five years younger. You know, a brother who is five years younger, you don't--

Sharp: Nothing there.

JM: [laughs] Nothing there.

It probably came out, you know, the religious education, from the denomination, somewhere along the line. But not that the church itself, or that particular denomination, was pacifist. Far from it.

My parents supported me in what I wanted to do, but I didn't get guidance like, you know, there are lots of counselors now here to help young kids and all that. I got no help at all. Or at least I was unable to find it.

Sharp: When you went back, then, to the Netherlands, did you have to stay in the army?

JM: For a brief period of time, six months or so, something like that. Of course, I had malaria. Yes, about six months or so. Then I went to college in the evening, while working during the day, but I was very unhappy with what I was doing.

Then I became concerned about other kids. I became a youth counselor, you know, with church kids.

JM: Around '53, I became an official counselor in an institution of kids from the large cities, Amsterdam, Rotterdam, the Hague, the urban centers; kids who had been screwing up. It was a state institution, something like the CYA [California Youth Authority]. But those kids not necessarily have been involved in criminal activities, difficult kids.

The director left, and he became the director of another institution, a private institution, so he asked me to come along with him, which I did. That was a private institution, which was for a combination of kids. I became the counselor in a group of kids who were slightly mentally retarded and slightly engaged in criminal activities. Then I had an assistant, a young woman, and we had a group of, oh, fifteen kids, I think.

Hundreds of thousands of Indonesians came to live in the Netherlands, because they were Dutch citizens, but they didn't want to stay there. The overpopulated Holland became even more densely populated. The government made a decision that whoever wanted to leave the Netherlands, it would give that person a one-way ticket. Tens of thousands of young Dutchmen, Dutch people, picked the government up on that and left, which I did. I wanted to go--when was it?

Sharp: Late in the '50s?

JM: Fifty-five. On my birthday I went on the boat and immigrated into America, straight to Berkeley.

Sharp: [laughs] Why to Berkeley?

JM: I had been working with relatives in England on a farm, and they were Americans. What I wanted to do was work with people within the religious framework; the secular framework was not sufficient to me.

So I went to the Pacific School of Religion [PSR] on the holy hill there in Berkeley for four years. Never to become a parish minister; I was not interested in that. But for my own edification. And to deal with people in trouble.

Sharp: But in a Christian context?

JM: In a religious context. During my stay at PSR, in '56, '57, I used to go to San Quentin one day a week working with the chaplain there.

In '58 I set up a Sunday school for kids who were developmentally disabled. There were quite a few kids who--that was '58, right?--used to be on a pass from Sonoma State Hospital, spastic kids and developmentally disabled. It was in those days when Sonoma State Hospital was quite different than it is now.

JM: Then I was appointed by the Central Contra Costa County Council of Churches to become the chaplain of the juvenile hall in Martinez. That was the first paid position by the Council of Churches for a chaplain in a juvenile hall. So I was the first one. Most of the people didn't know what a chaplain does, right? So it was interesting. I got to know all the probation people.

When I finished in '59 I took a year of clinical training at Napa State Hospital.

In 1960 the American Friends Service Committee was looking for a person who was willing and able to develop projects in the field of prisons. The associate director of the juvenile hall, he was a Quaker, and he said, "Now, that is something for you." At the same time, I got an offer from Hawaii, from the university there, to become the university chaplain. There I was; what do I do?

In the meantime I had gotten married in 1959. So we decided to hang around here. So that is what happened.

II ADVOCACY FOR THE AFSC

An Overview of the Prison Environment in California

Sharp: When you started working for the American Friends Service Committee, was that starting full-time, or were you doing other things, too?

JM: Full-time.

Sharp: Was the prison interest the main thing that they wanted you to do at that point?

JM: Well, of course, they had been doing already a lot of work in that area. But the prison and the jail were the major aspects of what they wanted the staff person to work on.* Work as a committee.

Sharp: I've done some reading which shows that there were quite a few differences of opinion about corrections in California in this period. I guess there always are. I thought we could talk about some of the differences, and then see where the Friends Service Committee fits in, in terms of reforms and changes.

During Governor Ronald Reagan's administration there were currents toward some shifts in the way corrections was being handled. One of the main things was changes in the role of the Adult Authority, and in the determinate or the indeterminate sentence, and a push slightly in the direction of more of a determinate sentence, from what I could tell.

*As the reader goes through this chapter, he or she may wish to consult the informative chronology, "Brief History of Prison Work in Northern California Region," compiled by the interviewee and reproduced in the appendix.

Sharp: I think it was about '71 or '72, the Adult Authority said that within six months of coming into prison a person would know what his sentence would be, at least have a very good idea of what the sentence would be. A person would have mandatory counseling and educational programs that he would have to get into.

At the same time, the legislature was pushing in the same direction, pushing the Adult Authority to limit its power somewhat and to put some rein on this indeterminate sentence, because there were some criticisms of the way that it had been handled.

Since '44, I guess, the Adult Authority had had this indeterminate sentence as its main focus.

I wondered what your perspective was on this slight shift away from the indeterminate sentence. I thought maybe we could start there and then talk a little bit about the Adult Authority itself.

JM: I would like to start a little bit earlier. When Pat Brown [Edmund G. Brown, Sr.] was around, he emphasized very strongly the more institutions, the better. That was his philosophy. You help people by locking them up, by putting them in institutions. That began to get out of hand.

As a result of the civil rights movement, primarily the civil rights movement, and the shifting of government money into the war on poverty (those were two very important developments), you had quite a few people who ended up in the prisons, who had tasted something of how you change things. Some of the prisoners, they had been actually involved in community development, positively.

So what you saw develop inside the prison was something very similar. The emphasis in the communities was on self-help; in the prison there came about an emphasis on self-help groups. Some of these self-help groups were able to get governmental money to do what the self-help groups inside the prisons felt was worthwhile.

The self-help movement, which developed pretty much according to ethnic membership, was a very frightening development for the prison administration. They didn't know how to deal with it, how to handle it, et cetera. I was very much involved in that.

We operated a residential center. This was a residential center for men coming out of prison, out of San Quentin.*

*In 1964, the American Friends Service Committee opened the Austin MacCormick Center in San Francisco as a residence center for men released from state and federal prisons and local jails. It operated as a residence center until 1972.

JM: We had a long history of all kinds of projects at San Quentin, so we were well-known among the prisoners. They knew about our position on non-violence. They knew, or they began to learn, about our involvement in the civil rights movement and the anti-Vietnam war movement.

##

JM: The reason why I begin with that a little bit is because those things set the stage for a lot of the later developments. We were very much involved in that. I made all kinds of suggestions to the legislature about that development. We tried to persuade the Department of Corrections [CDC] in setting up seminars, workshops on--it sounds funny now in '83--but on affirmative action. We wanted to have seminars on--you know, what do you do with a mixed population? How do you relate to them? How do you deal with them? And, of course, in those days the staff was almost pure white, so they didn't know how to handle it most of the time. There were all these suggestions to set up seminars, workshops on ethnic membership, what it meant. We insisted that our Black Muslim brethren, they should have their diet, they should have religious freedom like the rest of us. Of course, you know, we were out of our mind! (According to CDC.)

Of course, what we always encouraged was to bring as many people from the community inside the prison. So very often the groups asked me to contact so-and-so, and to see if he or she was willing to come inside a prison, speak to the various groups. There was always a very good understanding between the various self-help groups; there was no fighting. There was an understanding that unless we, as different people and different groups, take on the administration, the administration is going to take us on, each individual group.

There was very good rumor control among the prisoners. If an incident occurred, a stabbing or so on, there were all these rumors floating around, and this rumor control group would go to the situation, interview prisoners, find out what happened, and usually what happened, what they discovered was that it was not what the administration said it was.

You know, there were periods of time that the administration would forbid the black group to meet. Other times, they were allowed to meet and the chicano group was not allowed to meet, and vice versa. So the administration, not knowing how to deal with those groups, which were genuine self-help groups, they wanted to find out the history of oppression, where they came from. White, blacks, what is that all about, slavery plantations and the chicanos, the same way.

Since 1955, the San Quentin authorities asked us to come and help them with the problems the administration encountered with the native Americans. In those days there were many native Americans in the prisons. Because the native Americans, the administration said, when they appeared before the Adult Authority board, they would freeze,

JM: they wouldn't say a damn word. All white men, right? The native Americans never participated in the educational program or the vocational program. They were a group by themselves. You know the history of the American Friends Service Committee with the Inter-tribal Friendship House?

Sharp: Yes.

JM: That goes way back. In those days we had several staff people working on the reservations. So we set up the Intertribal Friendship House to help people who wanted help coming from the reservations.

That group was set up in '55, not to help the administration, but to help the prisoners who wanted to get together. So then we got together in '55 and had a lot of big meetings since. Of course, they have different things happen in a group like that. It started out as a tribal thing, and slowly people began to talk about the different tribes and hostilities between the tribes and all of that.

That was the first ethnic group which was allowed to meet inside the prison. So the self-help movement became very strong. Some of them employed their own teachers, not governmental teachers. There were people with credentials but just a different philosophy.

[As part of his review of the transcript, the interviewer asked Marinissen to explain further his comment about the teachers. His reply follows.]

Teachers were hired by the self-help groups. They were teachers with credentials, however not hired by the prison authorities. Most of the teachers had a different philosophical outlook than those employed by the prison.

[Transcript resumes.]

What was obviously happening was that people who were speaking out against the administration about all kinds of things, they got the brunt of the punishment. So they ended up in the adjustment centers. Because the adjustment center movement, the whole classification system, changed in the Department of Corrections, by which the adjustment centers became prisons within prisons. The adjustment centers were always filled with the real leadership of the genuine self-help groups, because they were willing and able to challenge the prison administration, the Adult Authority, and the legislature.

Sharp: That was sort of the standard punishment?

JM: Yes. Since you had the indeterminate sentence, what happened was that those people who were real leaders generally, they did far more time than anybody else.

JM: In 1969 we were thrown out of San Quentin. We were not any more welcome. The official reason they gave was that the services we provided were already provided by the staff. They gave all kinds of reasons, but they were not the real reasons. The reason why we were thrown out had to do with the American Friends Service Committee's position on Vietnam, civil rights, et cetera. In those days the SS unit became very important; the Special Services unit was in CDC. The SS unit was a unit which was in-between the Department of Corrections and the FBI and some other unsavory governmental structures.

In those days we operated this Austin MacCormick Center. We had fifteen people living here, which meant, of course, that we were always in a creative tension with the parole division. Because we protected the people. Not from criminal activities, but from being screwed over, and in the process, of course, the parole division wanted to control us. Nobody controlled us.

The SS unit, because I was involved in all those activities, aside from the prison activities--

Sharp: Antiwar things?

JM: Antiwar things, civil rights, and the People's Park later on. The SS unit was always with their cameras taking pictures. Of course, they usually saw me there, and I always made a point to let them know that I was there, for a variety of reasons, so that there was nothing secret about that. That was some of the reasons why we were not welcome any more at San Quentin. Because they saw within the self-help movement inside the prison and all the other activities, they saw a connection, and they were afraid. They saw behind any genuine self-help movement a revolutionary movement, what they called a revolutionary movement.

Of course, we didn't take being eliminated from San Quentin. We fought back. It took a while. Of course, we came back [in 1970] after big hassles. Then, of course, we were thrown out again after a while.

Now, what became important in '69 was that the Prisoners Union came into being, and I was involved in the first meetings of the Prisoners Union in Sacramento. It became a genuine movement.

In the same year, '69, we set up the Coordinating Council of Prisoner Organizations, of which the Prisoners Union became a member, and lots of other groups, all fighting back, because the rights which the prisoners had, the few rights they had, became more and more trampled upon.

JM: The population increased. Governmental agencies began to talk in those years about building a new prison. Of course, they had just built Susanville in '64. That was because that area was economically depressed, and they needed new industry, and they got a new industry. They were sorry that they ever got that industry. In the beginning they were sorry.

Together with the genuine self-help movement inside the prison, there came about, of course, an emphasis on the need by CDC to hire more blacks as staff people, later chicanos. Because up till then, staff were mostly all white. So that began about simultaneously, you see. That created a lot of unrest, too, within the penal system. Because there was no emphasis on affirmative action. That came far later. So a larger population--when did we have the lawsuit over the 1971 Administrative Procedure Act? No, that was a little bit later. Then we had the San Quentin tragedy.*

Sharp: Is that '71?

JM: Seventy-one. The prison population became larger; there was a far greater disregard for whatever rights the prisoners had, and then the whole development of the adjustment centers classification, it all came simultaneously.

Nobody knew how to deal with the unrest in the community, let alone with the unrest in the prisons. Nobody knew how to deal with it. The Department of Corrections was unwilling to listen to some people like myself, et cetera.

I brought people in from, for instance, the Urban League. They had never seen a prison, because usually black people stay away from prisons.

Discrimination in employment inside the prison became a real issue. All the paying positions were filled by white persons.

At the same time, there was a very important project born in this office. In 1969 I had an intern, a young woman from the UC School of Criminology. I always give students a choice of three projects, and she chose the one dealing with the wives of prisoners, organizing the wives of prisoners. Out of that came then the group, Connections.

*In August 1971, six San Quentin prisoners and a judge died in an aborted escape attempt in a San Rafael courtroom.

JM: She organized the wives of prisoners, helping with rides and baby-sitting, all of those mundane things, at the same time informing the wives about what was happening inside the prisons, because usually the prisoners don't talk to the wives about what the hell is happening. And yet the wives want to know. The wives wanted to become familiar with the operation of the Adult Authority board.

So we took wives up to the Adult Authority board to testify. I took the first ex-convict to the legislature to testify. I still know who it is. It was never heard of. You don't do that, right? People who are being affected by legislation, we don't bring them. That is now a given today. But in those days, no. So the wives who went to testify before the Adult Authority board, they got kind of a cold shoulder. The women came with some real stories. Experiences on their part as well as on the part of their husbands.

Then many of the wives got scared, because they discovered that after they had written a letter to the legislature, or to the parole board, or had testified before either of them, their husbands got it. I always told the wives, "Whatever you do, you decide with your husbands if that is what you should be doing, because he's going to get the brunt of the--"

Sharp: The punishment.

JM: "the punishment." So many of those husbands ended up in adjustment centers. The wives became split into groups. One group had no more political activities; the other groups had continued with advocacy. Finally, after five or six years Connections died because it was unable to keep its groups together.

Now we began to see that the Adult Authority board, because of the increasing population, et cetera, et cetera, begins to, not change to a determinate sentence, but they begin to slowly become less lawless and begin to put some more direction in the hopeless morass of illegalities. So now we are about '71, '72, I think. Because of the increasing population, and because of government agencies concerned about fiscal policies, Governor Reagan decided--the population was twenty-nine thousand--he decided ten thousand people should be released. Reagan called in all the boys of the Adult Authority board. There was a Jesus freak friend of his.

Sharp: Which one was that?

JM: They called him Jesus freak.

Sharp: On the Adult Authority?

JM: No.

Sharp: In the governor's office.

JM: It was in his inner circle.

Sharp: Is that Herb Ellingwood?

JM: Herb Ellingwood.

Sharp: He was the legal affairs secretary then, after Mr. Meese became the chief of staff.

JM: I only knew he was called the Jesus freak.

Sharp: Even then?

JM: Oh, yes. So they called in all the boys of the Adult Authority board and told them, "I want you to do the following thing. You reduce the prison population." That's what happened. Reagan almost overnight--well, not quite overnight, but almost overnight--released ten thousand prisoners, from twenty-nine to nineteen.

That is what I have been using with the overcrowded situation now. I tell them that even a law and order man like Ronald Reagan, he was willing to do that. Why the hell don't you do it, Jerry Brown? [Edmund G. Brown, Jr.] Why don't you call in the boys and tell them that that's what you want to do? Of course, Jerry, as an old Jesuit, he didn't have any feeling for people in prison. Reagan neither, but he felt that it was fiscally sound to have nineteen thousand rather than twenty-nine thousand. And of course here you find a parallel, the prisons and the mental hospitals.

Sharp: There is that thread there, yes. I had heard about this push towards release, too, because of the overcrowding, which has all the implications for budgets and so on, but the push towards local community treatment--you talk about it, too; so do some of the other reform groups, but I think you must mean totally different things.

JM: Yes. When you talk about the probation subsidy, you've heard that term?

Sharp: Yes.

JM: That was born in the mid-'60s. At one time, the probation subsidy reduced the prison population. They claimed all the time that the prison population, without the probation subsidy, would have been way up high, thirty-nine thousand, something like that. With the probation subsidy it was twenty-nine thousand. That was too much for Reagan, so he threw out ten thousand people.

JM: Now, when I'm talking about community development, or when we're talking about communities' involvement in all of this, then we are talking not about probation subsidy. We are talking about when the war on poverty was declared--of course never to be won, but at least lots of money became available to community groups. Many of the community groups, they catered to the prisoner and ex-prisoner population. So that is what we mean by community development and all that.

You're familiar with the book, Struggle for Justice, right?*

Sharp: I read it, yes.

JM: That set the stage for a lot of things. That was the first solid book.

Sharp: With recommendations that were concrete.

JM: Right. It was a revolutionary--not a revolutionary, but something like a revolutionary message. The message was that unless you begin to change the basic ingredients of the power relationships on the outside, you'll have a prison population, a jail population, steadily increasing. It was then we made the distinction between "crimes in the suite" and "crimes in the street ." A very basic distinction. The concept of empowerment is very important, and, of course, the self-help movement.

In the book we take apart, we tear apart, the phoniness of the rehabilitation model, the medical model. Unfortunately, by people who knew better, the elimination of the rehabilitative medical model has been equated with doing away with all services. Right? The reason why we were opposed to the rehabilitative medical model had to do with the mandatoriness of, you do something, in terms of going to school or going to church or any of those things, and if you do those things, then you'll have an earlier release. So it became a big game without any substance.

What we were in favor of, as we write in the book, is that there should be as many services provided to people as possible, and that prisoners would pick out what it is that they want, and whatever it is that they do should not count as an earlier release, to get out earlier. Because we felt that people who commit the same crime under similar circumstances, they should do the same amount of time.

*Struggle for Justice: A Report on Crime and Punishment in America was published by Hill and Wang, New York, in 1971, and written by members of the American Friends Service Committee, Marinissen among them.

JM: Regardless of your background, regardless of your connections. That was very important, because we knew that all the people ending up in the adjustment center, mostly black leadership and chicano leadership, and native American leadership, and white leadership, they did far more time for similar crimes under similar circumstances than other people. We wanted to have equality across the board.

When you look at the development of the Adult Authority board decisions, you see a move towards that end, to begin to equalize the time business. Of course, that was all administratively. And what you do administratively you can undo at any time. We are a nation of laws, not of men, right?

Sharp: If I can stop you for just a few minutes, I have some questions that tag along there. There are a couple of other sets of players in all of this that I thought we might spend a little time talking about. One, of course, is Ray Procunier, who was head of the Department of Corrections.*

JM: When did he become head?

Sharp: Reagan brought him in--[in 1967]. The Department of Corrections itself, and then the State Board of Corrections. I thought you might spend a little time just sort of outlining how the AFSC saw them, and what their objectives were, and how their objectives were different from what yours were. Because they were different.

JM: Oh, yes. Well, I mean, basically, we believe in the abolition of prisons. Many Quakers were involved in the abolition of slavery. We are committed to the abolition of the present form of slavery, which is the prisons, and the juvenile halls, and all of those places, which are the new reservations, the new plantations.

I've known "Pro" [Procunier] for a long time.

Of course, basically it doesn't matter who is in charge of the parole board. It doesn't matter. It basically doesn't matter. Because the model on which it is based, the rehabilitative model, people cannot predict, people cannot decide what's going to happen to people.

*Readers interested in Ray Procunier's perspective on his work in California prison administration may see his interview, "Administering Your Prisons," in The Art of Corrections Management, California, 1967-1974, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1984.

JM: To make a parallel with [Governor George] Deukmejian, his situation about Mr. [Archie] Fain, the prisoner. He wants people to predict what Fain is going to do. Nobody can predict that. So that's a phony issue. In those days a very famous study came out that was the "Deterrent Effects of Criminal Sanctions." Do you know that one?

Sharp: I think that's one of the ones I saw referred to, yes.

JM: It was done by the assembly research office. It was a very important study, because it did show that the longer you keep people in prison, the worse they become. The problem is, "Pro" [Raymond Procunier] was a very emotional man; he still is. Like when he quit Virginia, he just--

Sharp: That's it, yes.

JM: That's it. And you know, I've heard him use language in front of the legislature, "fuck it," and "damn it." That's one quality I like about "Pro." On the other hand, he says the way he feels, the way he perceives the problem and the solution, openly. On the other hand he is such a "lousy" administrator, wherever he is or goes he will leave things in a mess. His emotions stand in the way of proper management.

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JM: I liked "Pro," because of the help he personally extended to people. He didn't do it only with prisoners, he also did it with staff, black staff, chicano staff. He had that need to take somebody under his wings and provide that person with all kinds of opportunities. Not only staff, prisoners as well.

Sharp: He takes some credit for straightening out some of the problems that he saw in California prisons, in terms of affirmative action and--I don't know if it's affirmative action, but integration anyway.

JM: Oh yes.

Sharp: I wonder really what your perception of his policies is?

JM: He was not afraid to tackle an issue. I've always admired him for that. He very often came out on the wrong end of it. But then so did I. But because of his emotionality, he would slap you on the shoulder, "Here is an old buddy," you know, "an old friend," and you know, then--he did mean it, he did mean it, but he somehow tried to disarm you. He wanted you to come on his side.

Sharp: To co-opt.

JM: Yes, kind of co-opt. Well, he was not quite so subtle with us. He appreciated the book, the Struggle for Justice, not because he totally agreed with us, but we put a finger on one of the basic deficiencies in the system of the Adult Authority board. Parole should be abolished, we felt. And that the sentences should be determinate, period.

Sharp: And shorter?

JM: And shorter. Shorter and determinate. And the elimination of parole.

Focus on Alternatives: The Legislature, the Coordinating Council of Prisoner Organizations, and Prison Violence

JM: Of course, our position was that most of the people in prison shouldn't be there; they don't have to be there. Not only because most of them are nonassaultive, but also because the violent people could be non-assaultive. We had experience in this. We had murderers here, we had all kind of people who had committed violence in the past.

In those days they had developed the base expectancy score. They had developed a violence score, and all those things, you know, very scientific.

They were mostly phony, because we had all kinds of people who had committed serious violence living in this house, and of course, we knew all about the person. You can't help but know. But in a nonviolent setting, those people are not violent.

So we felt that far too many people were in prison, and still are. So quite frequently in my testimony I would speak to this issue.

Now, keep in mind that many people who were in the legislature, as well as in Reagan's administration, they used the upheavals in the community, as well as the upheavals inside the prison, as a way to portray--you've read some studies about it probably--that Communists were behind all of this. I'm not kidding. The kind of a [Joseph] McCarthy period notion, attitude, et cetera.

Sharp: But there were also a lot of people that weren't. When I was doing the reading for all of this, I was really struck by the variety and number of prison reform bills that came through the legislature in this period. Alan Sieroty and some of the others--the bill for the ombudsman, for example, and the prisoners' bill of rights, that was admittedly much more moderate than the one suggested in Struggle for Justice--

JM: Oh yes.

Sharp: --but I was surprised that there were members of the legislature that did have some healthy ideas.

JM: Right. And it is true, Assemblyman Sieroty, he was not a senator in those days, was in the assembly committee on criminal justice, there were some good people, with whom we really could work, and PC2600 is a good example of it. Another good example was the ombudsperson. Assemblyman [Frank] Murphy. Of course we testified in favor of that. I worked quite a bit with the staff person who developed that. What was his name? [Tim FitzHarris] Murphy's staff person. He wrote that book on the ombudsperson.

Oh yes, that was in a sense a contradiction. Quite a few important laws were passed, not signed necessarily by the governor, but they got through the senate. Senator [John A.] Nejedly is another person who was very important in this whole scheme of things. And they were reasonable people.

Okay, the lawsuit which we were involved in, in '71, was one of the most important lawsuits.

Sharp: Which one is that?

JM: That is the Administrative Procedure Act. Before '71--you know what the Administrative Procedure Act is, right?

Sharp: No, maybe I don't.

JM: It has to do with that affecting large portions of the population, rules, regulations; it says that laws should be passed after there have been public hearings. Proposed rules and regulations, policy statements, before promulgation, have to go through a process which includes public hearings, at which time ex-prisoners, prisoners' rights groups, and relatives of prisoners can make suggestions, give critiques, et cetera.

The Adult Authority board did not fall under the Administrative Procedure Act. CDC, the CYA, no; the state Board of Corrections, no; the Evaluation Board, no. None of those quasi-judicial bodies--

Sharp: They were exempt?

JM: They were exempt. A lawsuit was filed, and the American Friends Service Committee was one of the plaintiffs. And we won in the courts. We lost on appeal by the state however. Then we persuaded Assemblyman Sieroty to put it in one of the bills, which he did, and it passed. I don't think the people knew--

Sharp: What it was.

JM: --what it meant. That meant that from now on, all the rules and regulations of the Department of Corrections became public documents. So did the documents of the Adult Authority board. And all that. When they were going to make changes, they had to go through a public hearing process that the Administrative Procedure Act demands. Because now we have the Office of Administrative Law on top of that.

Formerly, attorneys were unable to get hold of state prison rules and regulations, and there was always a big hassle. Now they became available. That began to impinge upon the absolute discretionary dictatorial powers that they had over prisoners. They just couldn't do any more like they thought they--you know, what they got away with before. So that had a very important effect on power.

So then the Adult Authority board began to fool around a little bit setting dates, and all of that. But that was all administratively. That was no force of law.

When Nejedly began to introduce his bill, SB 42, the famous SB 42, I was back in San Quentin again. One of the things I did is to help prisoners to understand SB 42. Of course, what I had in the meantime also was the self-help movement; I told the prisoners about how the legislature operates, all of that. People should know that, no matter who you are. So that prisoners began to write, and then their own group was begun at one meeting. I told them who to write. Because I was in Sacramento, I knew all the boys, the legislators, so I told the prisoners to write.

And some of the legislators came down for the first time in history to a prison. Where did all those letters come from? Who are those people? So quite a few of them finally came for the first time to prison and sat down with prisoners.

At the same time, I was helping prisoners to understand the workings of the legislature and what SB 42 was all about and to solicit their reactions. Do you want an indeterminate sentence? There was a lot of discussion, et cetera, et cetera, your wife doesn't know when you're coming home, and your kids don't know when you're coming home. Prisoners felt very strongly that much of the violence in the prisons in those days was due to the not knowing.

Sharp: Does that make sense?

JM: Oh, yes. That makes sense, absolute sense. That not knowing when would kill anyone. And the complete discussion of the powers of the prison authorities to pick you up and dump you in a detention center for a lot of time on top of it.

JM: So there were lots of discussions on the yard about SB 42. The self-help groups, they studied every amendment to SB 42. They wrote letters to Senator Sieroty, to Senator Nejedly. Nejedly came to San Quentin, sitting down with the prisoners, hearing what they had to say, their feelings.

One of the problems is that when you yourself find a situation, very often your thinking is cloudy and your feelings are all mixed up. It's not always clear.

Then the CCPO developed its own paper that became very important, the determinate sentencing act.* I don't know if you've seen that one.

Sharp: No.

JM: We really struggled on that one. What do we as the coordinating council feel about the indeterminate sentence? What should it look like? We developed a whole thing. We took that to the legislature, and that became an organizing tool. Oh, we sweated that one, internal struggles and fights, and all that, but that's all right, we did it.

Let's see, where are we now? We are now in '74, '75 or so. We are almost past the Reagan years.

Sharp: Well, '72, there are still a couple of other issues that need discussion.

JM: There was a very important study in '71 by the state Board of Corrections. That was the--

Sharp: That's the one on violence?

JM: The so-called Kelgord study. That was one. And here again, I give Reagan a lot of plusses. He gave money for the Board of Corrections to do a study on the whole penal system, a study of all the jails, the prisons, juvenile hall, probation, parole, the whole thing. That was called the Kelgord study. ["The California Corrections System Study '71"]

Sharp: Who is that named for?

JM: [Robert E.] Kelgord. [spells name]

*The Coordinating Council of Prisoner Organizations published the "Determined Sentencing Proposal" in January, 1975. See Appendix for a copy of this proposal.

JM: Now, what of course is also important--oh, you want to hear about the study on violence, right? I testified about that, because we felt that so much of the causes for the violence was not because of the animosities among the prisoners' groups and among prisoners, but because of the prison administration's being unable to handle the new developments; like on the outside, they didn't know how to deal with sit-ins and demonstrations, let alone when prisoners become involved in that.

Then there were a lot of those--the San Quentin incident, nasty incidents, no question about that, but they were aberrations, I think.

The violence in those days, I think, had a lot to do with the violence among the staff, which was quite evident.

Sharp: Among the staff?

JM: Among the staff. In the sense that as there came about an awareness of the obvious discrimination, we saw in the beginning of the affirmative action, let us say, we saw where people made a lot of mistakes. The staff in the prisons had been very incestuous for a long time, and then you begin to introduce the new elements. There was a lot of violence among the staff. And that violence--they did not receive any help with that violence. So the violence among the staff was primarily coming down on the prisoners.

Sharp: I hadn't really thought of it that way.

JM: Oh, especially in the later years of Procunier and the beginnings of [Jerry J.] Enomoto, many people were promoted who shouldn't have been promoted. They didn't have the qualifications. But because of Enomoto they were promoted.

And then, of course, the turmoil among the prisoners, turmoil among the staff, and of course, one of the basic problems in California in the penal system is the lack of leadership in the central office. There had been feuds going on. I mean, any bureaucracy has it, but when you deal with the penal system, the feuding among the top people in the administration is horrendous.

At the same time, you have the problem that wardens, associate wardens, they are suffering from heart attacks and overeating, screwing around, and divorce, and all these things. Very often they're taken away as a warden or associate warden and placed in the central office. So they are becoming incompetent. Many of the people ending up in the central office became--they were incompetent people.

The other serious problem, all through the years that I have worked with the central office, has been that the wardens, they were in charge of fiefdoms, little kingdoms. Of course, you cannot have

JM: that. Laws should govern all the prisoners in similar ways. Because of the lack of leadership in the central office, you get all kinds of aberrations in the local fiefdoms. And that combined with the other thing I mentioned about people who have real alcoholic problems and end up in the central office.

Now, I am in favor of centralization, but I'm not in favor of taking away the creativity of people. There's always a little tension between them. But one thing you've got to be sure of, that all the prisons are operated the same way. Legally.

Sharp: That's not ever going to happen, though.

JM: Of course not. That was one of the reasons why Ruth Rushen ran into so many difficulties. She began to centralize things. Because she saw what had happened in some of the places. She dismissed them. She replaced them. Because she was a black woman, and the leadership in the central office was all white male, in their late fifties, sixties. So I think that all those things enter into the discussion, but we don't talk about her, but she began to centralize things. No question about that. That's why she got into serious difficulties. I mean, if you are the director, then you've got to be in charge of all the wardens, and you don't allow each individual warden to play out his games in the penal system.

At the same time, you want wardens to keep some of their creativity. You don't want to kill that. There is enough freedom within the context of the law that people can act out their creativity within the law. Now, "Pro," because of his emotionality, he was the worst lousy administrator. He could never sit down on his behind or sit behind a desk. He couldn't do it. He couldn't do it. He always told other people to do it, but it's not the same as doing it yourself. So he screwed things up pretty badly, too. Because he took many people under his wing.

You know, I have to drink something; otherwise I'll faint. You don't drink coffee?

Sharp: Some coffee sounds good. We'll take a break?

JM: All right.

[brief tape interruption]

Sharp: I have some specific questions I'd like to be sure we get to, so maybe I could get to some of those.

JM: Oh, but I want to answer first one question, because I see a very important sentence.

Sharp: Okay.

JM: There was a report on violence, right?

Sharp: I don't know if we're thinking of the same one, but--

JM: There were several.

Sharp: One of the ones that I know about, Mr. Reagan decided that the state Board of Corrections should do a task force on violence after San Quentin. Several of the recommendations that I saw asked for many hundreds of additional people involved in security. That was an answer. And I guess I'm interested in what the AFSC--

JM: I'll read a sentence here. [reads] "The AFSC is perceived to be partially the perpetrator in the state prisons."

You see, that was one of the reasons why we were not welcome.

Sharp: Because it was a rabble-rousing--

JM: Because we were part of the violence. We created the unrest. I have a memo somewhere written by the warden, by the associate warden, indicating the reasons he gave why we were not welcome any more. That is all cast in language which doesn't say that.

Sharp: But that's it.

JM: That's it. That when we were, of course, involved in some of the demonstrations at San Quentin, regarding the San Quentin Six. We were involved in some of the demonstrations at San Quentin, and of course people, revolutionary people.

They knew damn well that we are nonviolent and not involved in heightening the problem.

Except we heightened sometimes the problem in order for the bureaucracy to deal with the problem. That is what we do, that we are not involved in bringing dope and--and they know that. I know they know that.

But in order to deal with us, they scattered us, put us in the Communist camp, or put us in the camps of the revolutionary people, put us in the camp right opposite the law. We were part of the perpetrators of the violence.

And, of course, there's nothing new about that. Because we, by the legislature, some people in the legislature, are pointing the finger to us now, last year, the last couple of years, as the persons who are responsible for the violence inside the prison now. Because

JM: we are opposed to the building of any new prisons, we are the ones responsible for the overcrowding in the prisons. Because we have been opposing the building of new prisons for a long, long time. So we become responsible for the violence.

Sharp: Well, what you're asking for is quite a basic change in the approach to offenders, in the sense that you're not asking for more buildings, you're not asking for more physical spaces, big prisons, which are where Americans tend to put offenders. What you're asking for is really basic change, and have been for at least the past twenty years.

JM: Right. But that does not give people the privilege or the license to point a finger at us and say, "You are responsible for the violence. You are responsible for the overcrowding." And within the debate, within--as a change agent, that is what you have to do, but that does not give them license to equate your actions with violence.

Yes, so those studies on violence, oh, I remember them. The whole staff of San Quentin was involved in that. From the lowest to the highest level, little groups of prisoners. And they were discussing with one another what were the reasons for the violence. What is interesting to note is that many of the small groups came up with the same answer we came up with, which was that not knowing when you are going to be released is the major cause for the violence. Right? This is very important.

Then, of course, you know, when you look at the staff ratio in those days, and you look at the staff ratio, the staff-prisoner ratio, now, the staff falls over one another. At San Quentin it was unbelievable. What are we hearing today? We need more staff, we need more space. We heard that before, right? They fall over one another. They don't know what to do. They get in one another's hair.

Sharp: Staff for what?

JM: Guards. We need more guards. We need more guards. Of course here is where things begin to break down altogether. Because no prison can be operated without the consent of the prisoners. No prison can be operated without the consent of the prisoners. So in the olden days many of the prisoners had all kinds of important positions. They were clerks--almost every staff person had a clerk, a prisoner clerk. Very important. Not only from the point of view of working, people working, but--

Sharp: It builds loyalty and relationships.

JM: Relationships, yes. Staff people were talking about their wives and their kids, what they were doing, and the prisoners were listening, and raising questions. There's almost no prisoner working anymore.

Sharp: So it's more of a we against them than it used to be.

JM: Staff has taken over the positions which prisoners held in the olden days. When you look at the early '60s, like at San Quentin, you have a real attempt at--I've forgotten the term. What was the fad in those days in the field of psychiatry?

Sharp: Getting in touch with yourself?

JM: No. Therapeutic community.

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JM: They were talking about what they wanted to talk about. They wanted to talk about the conflicts between staff and prisoners, and I participated in that. That was in the early '60s. And then, of course, what you had also--and from a historical development, it's very important--you had group counseling in the prison, where the guards--every guard, every staff member had a group of prisoners. I think it ranged from twelve to about twenty. They met almost every day, from the lowest staff person to the highest, they had a group of prisoners. They met and talked, just talked about whatever you want to talk about. That was instituted by Dr. Fenton.

No matter how you feel about group counseling and all of that, what it did do was, the prisoners knew the staff, and staff got training in that, in group counseling. That reduced the violence considerably. Because--

Sharp: It's harder to be violent against someone who you sit and talk with.

JM: Sure. And you iron out problems. You iron out problems right then and there.

Sharp: And that's no longer a practice?

JM: No. That was abolished by--we can look that up sometime.

So then the early '60s to the early '70s, there's no comparison anymore. The supportive services disappeared, education, vocational training, there's nothing no more. Industries a little bit, but not much more. And not knowing when you are going to be released. And then the racial strife. And--

Sharp: This letting out of these ten thousand prisoners, inmates--

JM: Prisoners.

Sharp: Prisoners. Who was it who was left as a prisoner? That's one question. But also, what happened to the prisoners, what about recidivism?

JM: That whole myth we participate in, right--the recidivism stayed pretty much the same. The recidivism is no different here than anywhere else.

Sharp: Is that back to the predictability, that there's no way of knowing when?

JM: Right. The release of those ten thousand prisoners in 1972 did not create a crime wave. That is mass media shit anyhow. Waves of crime, increasing crime rate--that is a phony myth. People want us to participate in that mythology. We have had the ten thousand released in California; we have a thousand people released last year in Michigan, early release because the joint was so crowded. There was an incident among those thousand prisoners who were released earlier, ninety days, of two tenths of one percent, during the ninety days that they were out earlier. Then you have the whole situation in Florida. I forget the numbers. That didn't create any increase. It's all phoniness, all baloney. People would like us to believe that those things are true. They ain't true.

JM: It is true, of course, that when you keep ten thousand people inside a prison, they can commit crimes inside the prison, but they are not considered to be crimes of concern to the community. Right? The ten thousand don't commit crimes in the community, that's true. There's no question. One cannot argue that point.

But people say in order for us to eliminate the street crime in the community--New York did a study on that--we have to build such enormously large amounts of prisons and jails that we may as well declare bankruptcy.

So the early '70s, a tremendous emphasis on more guards and more weaponry. Oh, crap. So the release of ten thousand people relieved the overcrowding, and it made the budget smaller.

Sharp: And for those who were left in the prison, those were people who had done more serious crimes?

JM: Not necessarily. But a large percentage of those people who were left behind were the people who had been in the adjustment centers, not because of their crimes, but because of the thoughts of leadership and all kinds of people who were beginning to raise questions about the slaveholding.

The War on Poverty and the War on Crime

Sharp: I have a couple of other kinds of questions that I'd like to get to. In the Struggle for Justice there were references to the California Council on Criminal Justice, which is the California part of the LEAA, the Law Enforcement Assistance Administration. In '67, right at the beginning of the Reagan administration, they issued a really large report called "The Challenge of Crime in a Free Society," and they have all of these recommendations. Some of them are gun control; some of them advocate more community treatment of various sorts; more humane treatment within the prisons; and larger salaries for the prison personnel; and more training for the prison personnel.

I have a couple of questions. One is a basic one about how the Friends Service Committee related to this report, and its judgment of the report. That's one question. Then there's a larger question about the effect of the CCCJ work on corrections and law enforcement in California.

JM: We talked about the war on poverty. The war on poverty, all the money connected with the war on poverty was shoveled into the war on street crime, on crime, the war on crime. That was '67-'68. Of course the target population, exactly the same. Exactly the same. By that definition. Not by my definition, but by that definition. So I became very much involved in that, and I don't know how any more. I will have to refresh my something.

You know that in the Bay Area, ABAG [the Association of Bay Area Governments] became a recipient of the CCCJ money. I was very much involved in that. That was in--I have to look it up. It was either in '69 or '70. [He refers to materials.] Nineteen seventy. I mean, in 1970 I was appointed. The regional governments became the recipients of the CCCJ money.

Those regional governments, so-called regional governments, like ABAG and--you know, the governments of the other urban centers--the feeling was that rather than setting up a new structure, we'd use the existing structure. I was appointed to be the chair of the task force on prisoners and ex-prisoners. ABAG became the outfit which distributed the money. ABAG had a whole group of consultants in criminal justice.

Because I was the chair of the prisoner and ex-prisoner task force, I became a part of the executive committee with people like Dianne Feinstein. She was a good woman in those days. She was already a member of the Board of Supervisors, but I got to know her then, way back when she was really helpful. Ah, that's an indication

JM: that she's not now. [laughter] Well, let's forget about that. The other person on the committee--it was really funny--was Shirley Temple Black. Then there were some other dudes on the committee.

All the counties submitted proposals, and this small committee had to go over the proposals and make recommendations. To most of them I said no, because, especially in the early days, so much of the money went to hardware, to deal with the upheavals in the community. They wanted to beef up the cops with their hardware.

But then, because I was the chair of the prisoner and ex-prisoner thing, my group published a booklet, and that was for '71-'72, quite a booklet, that dealt with the pretrial population in jail.

In those days I talked about a moratorium on the construction of jails and prisons. Because when [Richard M.] Nixon was president, he came out with a ten-year master plan, of which I got a copy--God sent it in the mail somehow; I don't know who sent it, so God sent it in the mail. And the ten-year master plan in '70-'71 was a super plan that talked about the building of sixty-six new federal prisons across the nation. Sixty-six. You see, that was not an accident. When the civil rights movement, the antiwar movement, the free speech movement, and all those movements converged--I mean not converged, but--

Sharp: Came together.

JM: Came together. How do you say that?

Sharp: Merged.

JM: I was looking for another one. When they merged somewhere, and the money went from the war on poverty to the war on crime, there was a real fear at the federal level that they might have us in some real trouble, some real trouble. So the Nixon administration, the Justice Department, developed this plan for the sixty-six new federal prisons across the nation. Some day you can get a copy of that. It spelled out all the cities where the new sixty-six prisons were to be built.

The example by the federal government to have this massive building program was followed by the individual states, was followed by the individual counties. So in '71, '72, '73, and the following, you got on the state level the beginnings of a massive state prison building program. You got slowly on the counties--I have a chronological list of where the counties began to talk about building more jails. That was all in response to the movement.

JM: The war on poverty money was going to be poured into the building of all those new prisons and jails. Simultaneously with the money going into all kinds of hardware. In those days, the helicopters--oh, they came up with this fantastic--tanks, you know, the tanks, and--oh, God. To deal with what people thought was really going to be a breakdown of the total society.

Now, the report you talked about, that was something else, in the sense that there were many good suggestions made. The finger was pointed at the wrong direction. I mean, in many ways it was positive, what that report was talking about.

Sharp: In the sense that it found some problems with the existing prison--

JM: And ways out of the morass. But that is not going to occur in actuality. People went on the same way, and in many ways a worse way than before, because of--you see, a slowly--in spite of what Reagan did.

You see, after Reagan left and Jerry [Edmund G. Brown, Jr.] came in, the prison population went up very dramatically. You can see it.

So that '75--around '74, '75 we see already the tendency for an increased population, not only in California, but across the nation, and that was the period that the new jails and prisons were supposed to have been ready, or in the process of being built.

What we saw was that that was the years when the overcrowding began to take shape across the nation. Not in the states where there was a tremendous crime rate. That was hardly the case. In the states where the minority population was very significant. Secondly, the states where unemployment was significant. That is where we saw the increasing overcrowding in the state prisons and the local jails.

To come back to the CCCJ. So after that whole experience with ABAG, which became just a political plum, then there came a new direction, that not any more outfits like ABAG, SCAG, et cetera, were going to deal with criminal justice, the CCCJ money, but each county was supposed to develop its own criminal justice council. And of course San Francisco did. That was the time that we became very much involved in San Francisco, because San Francisco wanted to build a big penis downtown, one of those federal prisons. You know, they stick out thirty stories high, like in San Diego, in Chicago, Philadelphia, New York. In the middle of town! And they wanted to build a big one in San Francisco.

We defeated that, the community groups really got organized, and we defeated that. In those days we got very much involved in the mayor's council on crime. The mayor was [Joseph L.] Alioto in those

JM: days. And Alioto, flamboyant dude, [laughter] he appointed a committee of the CCCJ on the local level, which was all made up of--not of the good people. So we fought them on that issue. However, they met in secret.

I knew the people on the state level, the CCCJ people on the state level, the board, as well as staff. So slowly the secrecy was taken away, because Alioto couldn't afford to keep things secret any more.

The same thing in Fresno. They wanted to build a regional jail of four counties. The sheriffs met in secret [laughter] in 1974. So I was there on a certain day, and I heard that, and the community people told me about that. So my function is that immediately I went to Sacramento to the dude who's in charge of the CCCJ to tell him what the hell is happening in Fresno, that they have had a secret meeting. That is my function. That is what we perceived my function to be, that you involve yourself with the big boys and the big girls, on an honest basis, you get to know them. Then when you go and find things out which are actually screwed up, then you immediately get in contact with those people and say what's going on in there is bad, illegal.

The days of the CCCJ--oh, God. And things haven't improved.

Sharp: If you just look at the period that Mr. Reagan was governor, those eight years, you look at it like a slice of corrections, and how we deal with corrections. Most people don't know really very much about prisons, for one thing. And we don't care very much about prisons.

JM: Right. That's the nature of the prison.

Sharp: Yes. We just want people sort of away. We hope that they come out okay, and that they don't bother people any more. But if you look at the budgets, the proportion of the money that went into security and that sort of thing was very much against, very much in the opposite direction from, what might be actual rehabilitation or actual assistance, healthy assistance for the prisoner.

JM: Right.

Sharp: I mean, those are the two ways that--

JM: Yes. But you cannot--. You see, we have to be very careful. What I mean is, sometimes people tend to use a particular administration, let's say the Reagan administration in California, and point the finger at the use of more security, et cetera, et cetera. You have to see that in a historical perspective, because Jerry Brown poured far more money into security than Reagan did.

Sharp: That's not what you were supposed to say. [laughs] That's not what most people think.

JM: No, but that's the way it is. Because people think primarily according to party line, whatever that is. When we look at a party line right now, the Democrats were the ones opposed to the early release of prisoners. While the Duke [Governor George Deukmejian] wanted to release people. They are all political games. I told some of the legislators a week ago that they were holding 36,500 prisoners hostage.

Sharp: By not accepting--

JM: Because of the political game. People who feel good about people and who would like to see more things being done with people and for people and all of that, they look far too often at the political party line, and that is why we don't get anywhere.

I don't know if you saw your girlfriend [Petra] Kelly from Germany. Kelly is the Green. You know, that's what she said, and she's right. Because since we only look at the two political party system, we don't get nowhere. Absolutely nowhere. So one tends to blame the Duke for something which absolutely doesn't have nothing to do with him. And vice versa.

That is the beauty of the American Friends Service Committee; I'm not a Democrat to begin with; I'm not a Republican to begin with.

Some of the Democrats in the legislature-- I wrote Roberti, president pro tem, a very strong letter. You know, the Democrats didn't want to appoint George Denton to be the director of the Department of Corrections. I wrote Roberti a letter telling him that it is almost irrelevant who is going to be the director, "as long as you and your boyfriends on the Rules Committee and the other legislators don't take a greater leadership role in this whole deception vis-à-vis the jail population and the prison population." I don't have any words for their actions. They deceive us all the time. They will say, "Well, the constituency wants this." They don't know what the hell the constituency wants.

Now we go back to the determinate sentence. When the determinate sentence came about, finally, the two people who did the greatest damage to the determinate sentence system were Mr. [Daniel] Boatwright, Jerry Brown, of course.* Jerry Brown and Boatwright. They were the two greatest perpetrators of screwing over what was initially a very good bill.

*Both Governor Jerry Brown and Assemblyman Boatwright are Democrats.

JM: So it is not Democrats and Republicans. It depends upon your perception of the world and how you want to deal with what it is that you see. And Boatwright is one of the--you know what he did now? He introduced a constitutional amendment where he wants to change the constitution, the California constitution, to eliminate the cruel or unusual punishment clause, that double celling is not cruel or unusual. He wants to do away with--.

So sometimes, you know, the way we perceive certain people, because they happen to be Republican or Democrat, it's phony. It's a phony distinction.

##

A Role for State and Federal Courts

Sharp: I would like us to talk about the federal and state courts just a little bit in the area of prisoners' rights. During this period, the '60s and '70s, there was, it seemed, a significant increase in prisoners' rights as an issue. I'm thinking of the federal district court in San Francisco, and some of the opening up of prisoners' rights, the recognition that there were prisoners' rights. In '72 in the California Supreme Court there was a decision that said that the mail between an attorney and his or her client is confidential, is private and may not be opened. That is an example of the California Supreme Court's stepping in between the Department of Corrections and the prisoner and providing more assistance to the prisoner.

We haven't really talked too much about the courts, except the one suit that you mentioned, but I wondered how the AFSC saw the courts in terms of prisoners' rights?

JM: I see it this way, the heydays of the prison reform movement in America began in the middle '60s and went high, high, high, and then dropped around '74-'75, '75-'76. Because of the lawlessness, because of the disorder within the penal system, and because of the--you know the prison law project?

Sharp: Yes.

JM: You know Fay Stender and the prison law collective, and you know all those good troops and--in the middle '60s, and in the '60s in general, because of the great support we got from the community in terms of prison reform, the great pressures which came about, and since there were no positive results, the courts finally decided to step in. So that there were some very significant decisions made.

JM: And, of course, at the same time PC2600, the bill of rights for prisoners, so-called bill of rights for prisoners, the AFSC and the FCL and the CCPO and the Prisoners Union, all the groups were involved in that, and there was really a great concern--of course, obviously, it partly came about as a result of romanticizing the prison population. I could tell you stories. You know, there was a certain aura around the prison population. I've seen many examples of that. Quite a few young women got hurt in the process, because they romanticized all of that. Oh yes, many got hurt.

But because of that, because of the unwillingness of this Department of Corrections to deal with the problems, and not only in California but other states as well, the courts finally stepped in and cleaned up some of the mess. It was inevitable. Because the policy of hands-off couldn't any longer be maintained by them. Because on the one hand, the attorneys became wise in terms of prisoner law, and on the other hand jail house lawyers assisted the lawyers with their demands. I mean, you don't make money on it. They all had to be non-profit projects.

Then of course, there's the raising of consciousness among the bars. The bar set up the urban lawyers' committees, pro bono work. That came about--some of those big downtown law firms, they became--they aligned themselves with the prisoner movement.

Sharp: Sort of.

JM: Well, they are dealing with the big criminals all the time, Standard Oil and the nuclear power. You know, they defend the big criminals all the time, so they may as well defend the poor, the street dude, and all that. And, of course, [Judge Alfonso] Zirpoli was very much involved in that.*

Sharp: Yes, he was.

JM: His ruling on Santa Rita, I've always used that one. That money is not a concern, that the pretrial detainee is like you and me on the outside except he cannot get out. But in terms of comfort, in terms of his liberties or her liberties should be the same, and nobody can screw over those. That's what Zirpoli said. I look at Santa Rita, I found since Zirpoli made a ruling, nothing has changed. Nothing has changed.

*Readers may be interested to see Judge Zirpoli's own oral history and his discussion of Santa Rita prison, Faith in Justice: Alfonso J. Zirpoli and the United States District Court of California, an oral history interview conducted 1982-1983, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1984.

JM: Let me tell you what's happening right now, though. It doesn't fit in. You know that California has a ten-year master plan to build all those state prisons. You know that the legislature the last couple of years has increased the length of sentences, passed mandatory sentences, passed habitual criminal statutes, et cetera. Thirty-six thousand five hundred people in prison right now; only space for 24,500. Overcrowded. The legislature is making money available--. And the legislators want to be taken off the hook. So the courts step in.

But the courts step in after, you know, the prison law office files a suit. The court steps in. Judge Abbott, a good woman, a beautiful ruling about San Quentin and Folsom, Soledad and DVI [Deuel Vocational Institution]. That is what the legislature wants. That is what the governor wants.

That suit will go the supreme court. What do you think will happen? The supreme court will give a favorable position, with the result that the governor and the legislature and all the forces can get down on Rose Bird and the rest of the crew on the supreme court. That's the whole thing. So that the forces which are in opposition to the California Supreme Court gain respect. Because the supreme court will decide to release people. Not any more the governor; not any more the legislature; but Rose Bird.

Sharp: The solution will be received, and the California Supreme Court will get the criticism for it.

JM: Exactly. So that means that when the crew is up for confirmation again, they'll get: "You let out those violent prisoners." Right? There you go.

See, that is what is happening with the courts, you see. They are the final arbitrators of justice. They become the arbitrators, because the legislators and the other people, they don't want to do it. They don't want to take the responsibility to do it. So you have the court decide, then you have it in court, so the governor is off the hook, the legislature is off the hook. That is the amount of governance we have in California, not only now, but for a long time.

And that's not only true for the state government; look at the federal government.

It is regardless of your Democratic persuasion or your Republican persuasion. It doesn't make any difference. The people all have to decide what it is that they want. Do they want this non-governance, or do they insist upon that they want to be governed?

- JM: Of course, you know, some very important decisions have been made by the US Supreme Court. We are losing the battle a little bit. When you had the Supreme Court make a decision that double celling not necessarily constitutes cruel and unusual punishment--
- Sharp: It opens it up for the possibility of doing it with the sanction, using that as a precedent.
- JM: Right. Now, I'm doing battle still--I'm doing battle all the time--with the Board of Corrections. When you pass a bond issue for the building of county jails, there's a rule, a regulation, which states that all the pretrial jails have to have 100 percent single cells. So that when you are arrested, you're going to be in your own cell, you don't have people--by yourself. Not in isolation, because a dayroom is here, and the cells are there, you can go out at will. When you feel you need your privacy, then you can go back in. And if you feel like communicating, then you communicate.

The sheriffs, which want to build a bigger jail, and a better jail, and more jails, they are trying to get a variance from this regulation. They want to build dormitories, eighteen people to a cell, thirty people to a cell. They want lots of people in one room. They maintain it's cheaper.

Well, they are all innocent people. Pretrial people are all innocent people, right? They are innocent.

The state Board of Corrections, because it is really not a regulatory agency, but it is an agency which appeases the sheriffs, is giving quite a few counties variances to the 100 percent single cell regulation.

Sharp: To go ahead and do a dormitory thing?

JM: That's what I'm fighting right now. I just fight last week, and I got a postponement of two months, which is a very--from a time point is very important, because the counties are submitting applications for money, like Alameda County. They want a variance. So nothing has changed. You are building jails all over the place. You are building prisons all over the place. We've locked more people up. There's no improvement in social and economic justice. So--.

"To Let the Legislature Know"

Sharp: Why are you still doing this, then?

JM: It's got to be done. There have to be some people who together with other people join forces to let the legislature know that this is the wrong direction. And to let the state Board of Corrections know that this is the wrong direction.

We haven't talked about racism and all that, but the jails and the prisons are beginning to look more and more like the old plantations and the old reservations. More than 65 percent are black and brown. Is that what we dreamed about? I don't think so. Because the number of women is radically increasing. So you should be concerned about your sisters.

Sharp: Most of what we've talked about has really applied more to the men, because of the Adult Authority, than to the women.

JM: The women have their own authority. And that was a nasty authority. Not to sound like a sexist, but when women begin to judge over the lives of their sisters--[whistles].

Sharp: Harsher than the men?

JM: They are usually in a kind of a sexual mother-child--.

Sharp: Punitive.

JM: Oh, yes. And religious-sexual-mother-child relationship. Sisters are no different than brothers. I mean, men look at women as on a pedestal and all of that, and women are no different usually. At least in the power. They have the same hangups as us men have. So they were nasty, nasty. You know, the ripping away of kids from the parent and the mother, and we have testified many, many a time on the--you know, there's legislation on the book, the mother-infant program, where mothers in prison, women prisoners who are mothers with kids under six years old can be in the community, but they don't implement it. Hundreds of women could be released tomorrow--if CDC made money available to private women's groups, or whatever groups, to support residential centers for women with kids.

Sharp: So it's just not--even though it's a law--.

JM: Yes. There's a law. But you see, usually what happens, let's say when a good law is passed--and that is a good law--then the administrative agency tacks on all kinds of restrictions.

Sharp: To limit who might apply, who it might apply to?

JM: But they are restrictions which are not passed by law, that are rules and regulations. So those restrictions limit the number of mothers, women prisoners, who are eligible. So instead they want to build a women's prison in Stockton.

There are so many non-assaultive women in the prisons, check writers. You know, the percentage of check writers among women is large. Because the man or the boyfriend quits or runs away, and then the wife is left with nothing, so what do you do? Write a check. So there are many check writers at CIW [California Institute for Women] now. They shouldn't be in there!

And in the meantime, their kids are being taken away from them, placed in foster homes, farmed out. The state pays a phenomenal amount of money for that. That money instead could be used to keep the mother and kids together in residential centers.

I suggested to some of the women's groups here to really think about their sisters in the prisons and the jails. But women's groups are no different than other groups in that there are more exciting issues to deal with than dealing with prisoners.

Notes on Work with the San Francisco Police Department

Sharp: Are there a few notes you'd like to make quickly about the People's Park work and the roundtable with the San Francisco Police Department?

JM: [long pause] In '68 I made a suggestion to have an ombudsperson. Well, this started really in 1964. I was acquainted with this homophile community in San Francisco in '64. And--long story--there was a person, a religious person, who wanted to become familiar with the homophile community in San Francisco. So I introduced him to lots of people--well, in those days there was a difference, '64, '68-'84.

Sharp: Very different, yes.

JM: So I introduced him to leaders of the Mattachine Society and Daughters of Bilitis and some gay bars and motorcycle clubs, the dykes, things like that. And out of that came a meeting, a weekend retreat, of about sixty people, in '64. About half and half, half leaders from the homophile community, both gays and lesbians, and half of the religious community, partially gay, lesbian. So we spent a weekend in the White Memorial Retreat. And out of that weekend there was born the Council on Homosexuality and Religion, in '64. Most representatives of the

JM: homophile community and some of us were familiar with the discrimination within the police action against gays and lesbians. So slowly on we began to interact with the police department here in San Francisco, teaching them how to behave. [laughs] How to deal with lesbians and gays, and other people.

Sharp: You mean in arrest situations?

JM: Yes. And staying away from gay bars and lesbian bars; they should not go in there, and all that. Well, in those days there was a heavy emphasis on establishing citizens review boards, with all the upheavals in those days. The Council of Christians and Jews became involved in police community relations; it was very weak. That group is a very weak group. They mean well, no question about it--. So I became very well acquainted with the community relations unit in the San Francisco Police Department. Richard Hongisto was one of the officers. And--I forget his name now. He just retired. He was a black lieutenant. So in those days, lots of demonstrations--of course, the police didn't know how to deal with those demonstrations either, in those days.

Sharp: That hasn't changed.

JM: Not much. So they just beat the shit out of people. So I had got to know the chief of police, Tom Cahill in those days, partially because of my work in the criminal area. So then I arranged for who was in the police department--Cahill and his captains and intelligence unit--to meet with the leaders of the peace groups, and we had a lot of meetings to determine what we were going to do, or what the peace people were going to do, in terms of action and protest, et cetera. And to line up some kind of a common approach to the problem. That was very good.

Sharp: Was that to deal with some of the civil disobedience actions, or not civil disobedience?

JM: Both, both civil disobedience and just peaceful demonstrations. Of course, we had People's Park, and we were very much involved in that--I worked with [Fred] Cody. He's gone. You remember him?

Sharp: I wasn't here then.

JM: Oh, you were not around?

Sharp: No.

JM: Where were you?

Sharp: I was a college student, but I was at the University of Santa Clara. I wasn't here.

JM: On the day of the big march, we got thirty thousand marguerites, flowers, and we had them delivered to the march. They were given to the American Friends Service Committee for distribution to the participants of the demonstrations. And that set a whole different tone to what was initially a very volatile situation. You've seen those pictures of the marguerites in the guns.

Sharp: Yes.

JM: There was a complete, you know, how you can--

Sharp: Just a calming down.

JM: How do you say, divert attention. Dissipate.

Sharp: A quieting down somehow.

JM: Disarm the whole volatile situation.

Sharp: Or diffusing.

JM: Diffuse, yes. Of course, we had our meetings with the chief of police in Oakland. I forget his name right now. [Charles Gain] He became the chief of police in San Francisco. He became--it was unbelievable--to see a man have a conversion, to see a man change, and he really changed. He beat the shit out of the black people, his department. Then slowly on he becomes one of the few law enforcers who began to get a notion of social justice and economic justice. And he switches completely. Why can't I think of his name? He moved to Fresno; he moved away. So I don't see him anymore. Unbelievable. Even our worst enemies can change.

That is ultimately what we believe in, that many people who seem to be our enemies are able to be transformed, as you and I can be transformed. So he was a very good example.

The same as Richard Hongisto. He was a cop. I'll tell you a funny story. I invited him to come to the [Austin MacCormick] House when convicts were living here. For dinner. And he was sitting opposite of a man having dinner, and I was sitting next to the prisoner, and I saw those two looking at one another. They were both thinking, but they couldn't trace where they had met.

Sharp: [laughs] But they had.

JM: Now it was as follows. That he was running away. He had committed a burglary, and he was running away from Dick Hongisto, jumped the fence, and Dick Hongisto jumped over the fence and finally caught him.

JM: That came out at the dinner table. And they laughed! That was really beautiful. You know, you expect that a person like that will not remain calm.

Sharp: Definitely.

JM: No, they were sitting opposite at the table. Finally it came out where they had met one another.

Then we had a college committee, a committee for college students, concerned for college kids, and I set up a program for college students to relate to the police department in San Francisco. That was another way for college students to find out what makes them tick, and vice versa. Because most of the college students who are attracted by the American Friends Service Committee are people who like to see changes, but very often they don't know how to go and do it.

We had a project with Napa State Hospital for college students to begin understanding that form of incarceration. It is a form of incarceration. On weekends the students were living there to become familiar with--in those days they were interested in the relationship between religion and psychiatry. Big debate. After the weekend they would come back so many weekends, for them to interact with patients in the back wards in those days. I mean, there were a lot of back wards in those days.

So we provide settings, like I have had quite a few students who interned with me then for a period of time, either for their Master's degree or for other graduate study. They pick one particular area that they would like to work in and write a thesis on.

Sharp: That's where that women's project, the Connections--

JM: The Connections was one of those.

Another one was--she was a Chinese student. She wrote a paper on women prisoners. She didn't make it. I mean, she never saw that feminism ultimately would destroy the prison. She never understood that.

Another student I had did a thing on the prisoner industry.

##

Interviewer: Sarah Sharp
Transcriber: Sam Middlebrooks

TAPE GUIDE -- Jan Marinissen

Date of Interview: September 27, 1983
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tape 2, side B
tape 3, side A [side B not recorded]

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BRIEF HISTORY OF PRISON WORK IN

APPENDIX

NORTHERN CALIFORNIA REGION

compiled by Jan Marinissen

ROUGH DRAFT

1943 San Quentin

The rumor has it that the AFSC was helpful in collecting worn-out shoes for prisoners to repair for the AFSC to send to Algiers. (I have been unable to substantiate this project)

1947 San Bruno (San Francisco County Jail Facility)

Member of the San Francisco Friends Meeting began to take an active concern in conditions at the jail. Contacts are made with wives and children of prisoners and transportation is being provided.

1948 Northern California Service League

AFSC appeals to several community agencies and groups to share its concerns about San Bruno. The San Francisco Mental Health Association, Catholic Charities, Jewish Committee for Personal Service and the AFSC established the League.

The AFSC established Institutional Service Units at San Bruno to provide small classes for educational and basic skills courses.

Transportation of relatives to jails continues.

1950 Prison Institutes

Originally started by AFSC, the Prison Institute was taken over by the University of California around 1958-59. Examples of topics:

- 1956 The Jail: Scrap Heap or Salvage Station
- 1957 The Released Prisoner and the Dynamics of Change
- 1959 Handling Violence
- 1959 Capital Punishment and the Penal System

1955 San Quentin Native American Group

San Quentin warden approached AFSC to help with the Native American prisoners because they were not participating in counseling, education programs, or appearances before the Adult Authority, and glue sniffing was frequent. The AFSC Native American Field Worker put the group together.

In 1960, the Prison Secretary continued the meetings until a person from Intertribal Friendship House took over the leadership. This group expanded to other prisons. The emphasis was first on personal concerns, then tribal concerns, later empowerment, and then legislative concerns.

1956 San Quentin Family Project

Danish female social worker worked with wives and children of San Quentin prisoners--helping with transportation, foster homes, counseling prisoners, arrangements for release plans.

AFSC provided services including counseling with prisoners and their wives and children. Worked with community groups and agencies to take on the jails as one of their concerns. The emphases were on expansion of work furlough, county parole, educational classes, and provision of chaplaincy services by the Council of Churches. Sample developments:

1962 Jail Institute with Clinton Duffy

1963 women volunteers in Martinez jail

1964 Jail Institute on Work Furlough, County Parole, Education

AFSC tried to resolve the problem of many agencies working with one family (a total of eight agencies confusing clients.)

1960 San Quentin Pre-Release Group

Visits to prisoners on an individual basis once a week. Pre-release group met twice a month; participation of Committee members and other volunteers from outside the prison system. These persons were useful in employment and friendships when prisoners were released.

Prison Secretary was allowed to be anywhere in San Quentin with no restrictions placed on him.

In 1963 students were recruited to become involved in group counseling at San Quentin and to become familiar with the prison system.

In 1962 an outside parole group was started; it did not work out very well.

In 1963 the pre-release group talked more and more about a residential center in San Francisco which would be beneficial for them on release.

1961 Bay Area Corrections Clearing House

Lots of effort went in to this project; however, after a year there was a loss of support for it.

1964 San Quentin Family Relations Group

Prison Secretary and his wife conducted a group for husbands whose wives lived in the Bay Area and were soon to be released. Sessions with wives and children about the changes soon to come about in the family after years of absence of the husband.

Relatives became familiar with the Adult Authority rules and regulations (or the absence of same.) Questions about the discretion of the Adult Authority occurred regularly. The group was discontinued in 1965 since San Quentin developed its own family group.

1964 Council on Religion and the Homosexual

Prison Secretary introduced sex expert to leader in the homophile community in efforts to reduce tensions between this community and the police. This resulted in a weekend meeting of representatives from churches, religious leaders and homophiles. A Quaker View of Sex was very helpful.

1964 Austin MacCormick Center

AFSC opened this residence for persons released from state, federal prisons and from local jails. It had 3 major functions: (1) helping the individual during period of transition; (2) inviting citizens to AMH to become familiar with the prison system

while talking with the residents; (3) feeding back into the system changes which are needed and informing the legislature about needed law changes.

Luncheon meeting every week with a speaker and discussion. Sample topics: Usefulness of Parole; Indeterminate Sentence; Alternatives to the Present System.

Dinner seminars once a month with a speaker. Topics included: Community Response to Drug Addiction; Probation and Parole Policies; Violence in the Prison.

Held an employment seminar one evening each week.

Annual meeting to celebrate AMH.

Development of satellite apartments in the neighborhood.

Provided for the strengthening of the organization Rebound by having its members live in AMH. In later years, AFSC found a complex for office space and living arrangements for the group elsewhere.

The AMH provided opportunities for Conscientious Objectors doing alternative service and for student interns from various colleges and universities.

1965 Recruitment at San Quentin for Austin MacCormick House

Weekly interviews with prisoners wanting to explore living at AMH

1956 San Quentin Visitation Project

Twenty men and women volunteers (from Marin County primarily) committed themselves to weekly evening visits with men to be paroled. Unable to proceed with project due to violence.

1967 San Quentin Self-Help Developments

AFSC became increasingly involved in the self-help development inside the prison and with the chapters on the outside of SATE and Empleo

1967 California Legislature

More and more testimony before the legislature and introduction of ex-prisoners into the legislative process

1968 Proposals Submitted to CDC and the Legislature

Due to the increasing turmoil in the prisons, AFSC made the suggestion of an Ombudsman, affirmative action, racial institutes; raised concerns about the denial of the right of Black Muslims to worship and employment discrimination in the prison.

1968 Struggle for Justice

The idea is born to develop a working party to arrive at an AFSC position on criminal justice matters with an emphasis on prisons

1968 SOREMO, Inc.

In encountering the many employment problems for the residents in AMH, SOREMO is established to provide residents with temporary work while looking for more permanent employment. A Union Oil gas station is leased on the corner of Mission and Fourth Street in San Francisco.

Gardening tools are procured and a gardening service established.

1968 Police-Community Relations

The Concerence of Christians and Jews start a program for citizens to interact more with the police force in San Francisco. Staff becomes actively involved in meetings between the citizenry and the police, especially as they relate to the homophile community and the Black population.

1968 Police and Peace Leaders

Staff brings together the leadership in the Police Department with the leadership of the peace movement during the height of the Anti-Vietnam War Movement. Emphasis is on the right of peaceful dissent; involved in monitoring peace marches. This effort takes place both in San Francixco and in Oakland

1968 California Council on Criminal Justice

The committee submits 5 proposals to LEAA for funding:

residence in lieu of incarceration

SOREMO

Satellite apartments for ex-prisoners

Rebound (ex-cons go to San Francisco State University)

transportation system between Los Angeles & San Francisco (for relatives of San Quentin prisoners from the south)

1969 Denial of Access at San Quentin

Prison administration begins to distrust AFSC more and more regarding its involvement with self-help groups, participation as a leader in demonstrations outside the gate, and other vague suspicions. After a long struggle, AFSC is let back in by 1970.

AFSC provides legislative information to prisoners, including tools on how to approach the legislature, insight into the Adult Authority procedure and policies, and how to challenge the prison administration regarding grievance procedures, lock-ups, etc.

1969 Quaker Soledad Peace Mission

Members of the San Jose and Palo Alto Friends Meetings are raising concerns about the treatment of prisoners at Soledad O Wing. Staff of AFSC provides consultation. The Friends were denied access.

1970 Prisoners Union

AFSC staff invited to consult with ex-prisoners during the first meetings of the PU

1969 Coordinating Council of Prisoners Organizations

Staff joins with other ex-prisoners' groups, community groups and agencies to focus exclusively on the prison system regarding the discretion of the Adult Authority. CCPO was in favor of eliminating the indeterminate sentence. CCPO also worked to undergird the self-help movement, to develop a Bill of Rights for Prisoners, and called for a Moratorium on the construction of new state prisons. These efforts were in the form of action and education.

1969 San Francisco Citizens' Council on Criminal Justice

Formed in response to the Mayor's Committee on Crime, which did not include the citizens most affected by crime and the criminal justice system. Council called for open public meetings.

The group was primarily responsible for the defeat of the proposed new federal correctional metropolitan center, by gaining a majority of members on the commission to decide the fate of the proposed prison.

1969 Connections

An intern develops a project for wives and girlfriends and children of prisoners. This group is later called Connections, which informed and educated its members, providing them with handles to appear before the legislature and the Adult Authority to protest grievances

1970 Transitions to Freedom

SOREMO failed as an experiment and was supplanted by Transitions. Its emphasis was on work experience and employment opportunities for ex-prisoners, both male and female. Developed an employment kit. Operated a work crew with its own foreman. Helped the staff of Transitions were ex-prisoners. Established a SCIL Project for prisoners and ex-prisoners in connection with the community college for training key punch operators. Private corporations were involved to foot the bill and commit themselves to hiring the ex-prisoners after training.

1970 Association of Bay Area Governments

Staff appointed chair of the Committee on the Adult Offender Steering Committee, which decides on grant to be made to Bay Area counties out of LEAA funds. Emphases on OR and citation release and moratorium

1971 Contra Costa County Jail Moratorium

Social Action Committee of Friends Meeting with consultation from AFSC staff conducts a hearing regarding the new jail

1971 Alameda County Safer Street Alliance

Staff asked to consult with Alliance which is floundering. Instead of downtown concerns, the group begins to focus on preventing street crime by looking closer at county jails. From this concern grew the Citizens for Liberty and Justice a few years later.

1971 Santa Clara County Search for Justice

AFSC area Committee on the Search for Justice was established with members of several Friends Meetings and other community group members. The county being the recipient of millions of dollars from LEAA as a model for the nation, group insists upon citizens' participation. This was unsuccessful.

The group defeated in 1973 the building of 3 additional county jails with the help of many other community groups and agencies.

1971 San Quentin August Tragedy

Several guards and prisoners die, including George Jackson. Judge dies as well in aborted attempt to escape the court room in San Rafael. Massive demonstrations. San Quentin Six indicted; members of the Committee attend trials. Staff consults with defense attorneys.

1971 Joint Strategy Action Commission of Northern California Ecumenical Council

Staff invited to consult with JSAC regarding criminal justice. Seven proposals were submitted and Moratorium was accepted as major focus.

In 1973, the moratorium becomes a joint proposal of AFSC and JSAC. JSAC puts two staffers in Alameda County where plans were to build at least 4 jails. There is a simultaneous focus on the Ten-Year Master Plan of the Federal Bureau of Prisons

1971 State Board of Corrections

Staff begins to visit and attend the meetings regularly regarding Minimum Standards for County Jails. Begins to speak in opposition to massive jail building.

1971 The Struggle for Justice

Publication of The Struggle for Justice was a result of the nationwide AFSC effort to arrive at a position paper on criminal justice with a major focus on the prison system. There were numerous TV interviews and radio appearances and newspaper articles.

1971 Board of Corrections: Correctional System Study & Violence Report

AFSC and many other community agencies and groups tried to persuade the Board of Corrections to include them in the total correctional system study as consultants.

Some groups attempted to bring another perspective to the nature and bases for the violence occurring in state prisons. This was to no avail. In the final report, in fact, AFSC and the coalitions of community groups are perceived to be partially the perpetrators of the violence in state prisons.

1971 Administrative Procedure Act

Staff helps law school students with information regarding the need for the California Department of Corrections and Adult Authority to fall under the Administrative Procedure Act. The final decision by the Court (after AFSC decided to file suit) was denial of that inclusion. However, the staff was involved in getting the legislature to pass a bill to include those agencies in the Act and the bill was approved by the Governor.

1972 Justice Before Trial

Additional staff person develops project in San Francisco about the bail system. The emphases were on research, education and action

1972 Residential Center Terminated

The Prison Committee decides to lay down the residential aspect of the Austin MacCormick House and to focus instead more attention on the Moratorium. Other prisoner groups invited to take office at the AMC

1973 Moratorium Project

Staff being sought for developing county jail moratorium constituencies in all counties of Northern California. This to be done with the help of JSAC county organizers.

The attempt to persuade the National office of AFSC to adopt a moratorium statement and a national project was unsuccessful. Instead, the Unitarian Universalist Service Committee begins a national component project for the moratorium, focusing on the Federal Bureau of Prisons and the expenditures of LEAA for prison and jail construction.

1973 "Mentally Ill" Offender Project

Additional staff was hired to develop a project focusing on persons who are obviously "disturbed" who formerly would have been in mental hospitals, but who, with the closing of these hospitals, were ending up in the local jails. The project dealt with the obvious confusions and contradictory philosophies regarding the handling of these persons. Gradually, the county begins to pick up the concerns expressed by AFSC toward

"mentally ill" offender.

1973 Moratorium in the Pacific Southwest Region of AFSC

Staff visits frequently with staff and committee in Pasadena to persuade them to begin a focus on the moratorium since many state, federal prisons and county jails are being proposed in that area.

The national office of AFSC does not seem to be able to be persuaded to follow the moratorium path.

1973 Coordinating Council of Prisoners Organizations

This group increases its concerns regarding the discretion of Adult Authority. It begins to develop its own Determined Sentencing Proposal, published in Jan. 1975

1974 Prison Moratorium Conference

The first large moratorium conference attended by about 300 persons. Main speaker was Jerry Miller, former director of Massachusetts Juvenile Corrections (equivalent to the California Youth Authority), who closed down all juvenile prisons during his tenure.

1974 Jail Moratorium Project Sponsored Jointly with JSAC

Additional staff is hired to work on the large expansion of new jail construction in Northern California counties.

1975: A large Jail Moratorium Conference in San Francisco attracts hundreds of persons to resist additional jail cells for thousands of prisoners

1976: Citizens for Liberty & Justice, with a coalition of groups in Alameda County, attracts hundreds of people to a conference opposing construction of new jails in that county. Main speaker was William Nagel, President of the American Foundation/Philadelphia.

1975 Friends Intervention Service

The "Mentally Ill" Offender Project (primarily information gathering and research) moves now into operation, providing practical services to both "clients" and courts. Final report published in 1978.

1975 "No-Hold" Project

With an LEAA grant additional staff hired to do action/research on prisoners who could be released except for holds placed on them by police, sheriffs, probation departments. Final report in 1976

1976 Moratorium Slide Show and Guide

Staff develops text for slideshow and guide and Humanities Productions produces the slide show. Nationwide purchase of the slide show; appeared on TV (NET Bay Area channel 9) and many showings to groups and schools ever since.

1976 The Committee Against More Prisons (CAMP)

The Commission on Social Justice of the Archdiocese of San Francisco convened a meeting of several community agencies and groups, including ex-prisoner support groups, to deliberate the relevancy of the Minnesota Community Corrections Act. Soon, CAMP became the coalition of Bay Area groups opposed to construction of new state prisons.

1976 San Quentin Visitation

Increasingly the attention of prisoners is being directed toward SB 42, the Determinate Sentencing Bill introduced by Senator Nejedly. Staff helps prisoners relate their views regarding indeterminate sentencing versus determinate sentencing to the legislature. There was an active letter-writing campaign to legislators and requests to their staffs to interact with prisoners directly regarding SB 42.

1976 Legislators Consider SB 42

Members of CCPO and other groups attend meetings of the legislature, testify before various committees, and meet with individual legislators.

1976 Austin MacCormick Center

Space in the Center is now divided by various groups: Central Committee for Conscientious Objectors; Women Over 40; Unitarian Universalist Service Committee; Women's Jail Study Group; AFSC criminal justice programs; plus a few residents including some ex-convicts

1977 Determinate Sentencing Law

After a bitter struggle, SB 42 is adopted. It was not to the AFSC's liking because the sentences, although determinate, are far too long and the reintroduction of discretion nullified the earlier positive aspects

1977 Victim-Criminal Project

As a result of staff interacting with prisoners who have great concerns about not being able to do much for the "victim," together with their own perception that many of them are "victims" of society's ills, an attempt was made to establish a group in San Quentin for "Victims" and "Victimizers." This was thwarted by not having access to the prison, due to the warden's distrust of AFSC. Final report March 1981

1977 Jail Moratorium Coordinator

New staff is bringing about a network of moratorium supporters in outlying counties in Northern California. Pressure to build additional jail cells is counteracted by citizens' groups in the counties, pushing for alternatives to incarceration expansion rather than cell space expansion.

TheWall Paper, a monthly newsletter, goes out to 600 persons across Northern California providing them with information and insights on how to do the battle.

Regional conferences occur frequently for persons dealing with the moratorium in their counties (Fresno, Sacramento and San Francisco are some locations.)

1977 Northern California Coalition Against the Death Penalty(NCCADP)

Staff meets regularly with the Coalition and serves on its executive committee.

1978 Citizens Advisory Committee on Minimum Jail Standards

Staff was appointed to and served on this committee

1980 Citizens Advisory Committee on Alternatives to Incarceration

Staff appointed to this commission by legislature.

1980 Kids in Jail?

Work study student writes paper on topic of persons under 18 in adult jails

1980 Prison Industries

University of California/Santa Cruz student writes paper during 6 month internship

1981 Women State Prisoners

University of California/Santa Cruz student writes paper

1981 Commission on Needs Assessment & Jail Construction Fund Criteria

AFSC staff appointed by State Board of Corrections

"Determined Sentencing Proposal"
 Coordinating Council of Prisoner Organizations
 January 1975

FOREWORD

For more than sixty years the indeterminate sentencing philosophy has dominated correctional policy and practice. Based on the medical model which views the criminal as a sick person who requires treatment until cured, it allowed criminologists to ask for and obtain the widest possible discretion in sentence setting in order to be allowed sufficient time to effect a cure.

It was hailed as ushering in a new era in penology wherein the offender would be the recipient of treatment reflecting his or her individual characteristics rather than the crime committed. This it was thought would obviate the need for retribution since the offender would be returned to society a changed person and would offend no more.

The reality has fallen far short of this ideal. Some of the more obvious shortcomings of indeterminate sentencing in practice are:

- great disparity of time served by prisoners sentenced for the same crime.
- sensitivity of sentencing authorities to the hue and cry of public passion, resulting in irrational median sentences when measured against the financial or physical harm resulting from the criminal act.
- the destructive influence on prisoners lives resulting from prolonged uncertainty.
- persistence of high recidivist rates.

In response to this evident failure, the Coordinating Council of Prisoner Organizations established a committee in October of 1973, to study the problem and search for an alternative to indeterminate sentences. This Determined Sentencing Proposal is the result of that study.

It is widely recognized that criminal behavior results from many causes, many of them rooted in social, economic and political conditions. Sentencing cannot effect these root causes. Its principal function therefore is to satisfy demands for retribution which if left unsatisfied would create social unrest.

While recognizing this demand, the proponents believe that retribution should be exercised with restraint. This restrained use of state power legitimizes demands for lawful behavior from individuals. Social expectations are elevated rather than degraded by moderation in sentence setting.

Since punishment is the object of sentencing it follows that it should be meted out with an eye to equal justice. All offenders convicted of the same act should receive the same sentence. This will require the redefinition of some crimes so that sentencing can reflect the degree of harm done.

In terms of standard setting this proposal abolishes the use of violence, cruelty or death as punishment for any crime. It limits sentences for all non-violent crimes on the basis that long incarceration has a damaging effect detrimental to both society and the offender. Only in cases of serious bodily harm do proposed sentences exceed 2 years.

Sentences are proposed for six categories of felonies in the belief that a simple sentencing structure will insure the greatest public understanding thus maximizing deterrent effect.

Coordinating Council of Prisoner Organizations

C.C.P.O. DETERMINED SENTENCING PROPOSAL

ARTICLE I. PURPOSE AND POLICY

Section 1. The purpose of penal codes is to establish the minimum standard of conduct which society deems necessary to enable its members to live together harmoniously and for society to prosper and endure.

Section 2. The purpose of this Act is to achieve equal justice for all offenders by establishing determined sentences of reasonable length.

Section 3. It is the policy of this Act that, in sentencing offenders, society shall, by its conduct, set the standard which is expected of individuals in resolving their differences.

Since societal good demands that individuals resolve their personal problems without resorting to violence or inflicting death, society in imposing sentences shall not resort to violence, cruelty or death.

Section 4. It is the policy of the Act that the state do no greater harm to the offender than the offending person has done to society or to other persons.

ARTICLE II. SENTENCING PHILOSOPHY

Section 1. Sentencing establishes the degree of opprobrium which society attaches to proscribed acts.

Section 2. Sentencing functions to mitigate and obviate the desire for personal vengeance by those suffering harm.

Section 3. Sentences should balance societal demand for punishment, the general deterrent effect of sanctions, and the desire to minimize any lasting damage to the offender by the experience of incarceration.

Section 4. The general deterrent effect of sentences exists in a widespread public understanding of the price to be exacted for the commission of a crime. Therefore, it is desirable to establish a limited number of categories of crime, readily understood by the citizenry, graduated by seriousness of offense type, for which sentences are prescribed.

ARTICLE III. SENTENCING

Section 1. Sentences shall reflect the circumstances and seriousness of the offense. The offender's personal characteristics, including his previous arrest record, shall not be considerations.

Section 2. In establishing sentences for proscribed acts the severity of the harm done and the offender's intent and motive shall be considered.

Section 3. Except as hereinafter provided for, sentences for offenses in which serious bodily harm does not occur shall be less than two years.

Section 4. Offenses committed by those in positions of public trust and responsibility, and by those in positions of great economic power, where such offenses are related to their position, shall be one degree more serious an offense than the same offense committed by those without such public trust or economic power.

Section 5. Attempted offenses shall be one degree less serious than the offense attempted.

Section 6. There shall be no parole.

ARTICLE IV. SENTENCING CATEGORIES

Section 1. All existing felony offenses shall be redefined as necessary and divided into the following categories.

Section 2. CATEGORY I

- A. Category I felonies shall include:
 - 1. Murder committed with deliberate premeditated malice aforethought and extreme atrocity or cruelty.
 - 2. Felony murder as presently applied in California committed with extreme atrocity or cruelty.
- B. The sentence for Category I felonies shall be ten (10) years.

Section 3. CATEGORY II

- A. Category II felonies shall include:
 - 1. Murder committed with deliberate premeditated malice aforethought.
 - 2. Felony murder as presently applied in California.
- B. The sentence for Category II felonies shall be six (6) years.

Section 4. CATEGORY III

- A. Category III felonies shall include the following types of crimes:
 - 1. Intentional homicide in which provocation is inadequate to reduce the crime to manslaughter.
 - 2. Extremely serious assaults with intent to kill or in which bodily harm occurs such as:
 - (a) Assault with intent to murder.
 - (b) Assault in which serious bodily harm occurs.
 - (c) Robbery or Burglary in which serious bodily harm occurs.
 - (d) Forcible rape in which serious bodily harm other than the rape, occurs.
 - 3. Acts committed for profit which place the victim in danger of death or serious bodily harm for an extended period of time, such as:
 - (a) Kidnapping for ransom or robbery.
- B. The sentence for Category III felonies shall be three (3) years.

Section 5. CATEGORY IV

- A. Category IV felonies shall include the following types of crimes:
 - 1. Non-premeditated homicides such as:
 - (a) Intentional homicide while under the influence of a sudden, intense and violent emotional reaction to serious provocation.
 - (b) Homicide by criminal negligence.
 - 2. Felony acts where the potential for serious bodily harm or death is high.
 - (a) Assault with a deadly weapon.
 - (b) Armed robbery.
 - (c) Forcible rape.
 - (d) Kidnapping other than for profit in which there is danger of death or bodily harm to the victim.

Section 5. continued

- B. The sentence for Category IV felonies shall be two (2) years.

Section 6. CATEGORY V

- A. Category V felonies shall include the following types of crimes:
 - 1. Acts committed for profit in which there is potential for bodily harm such as:
 - (a) Unarmed robbery.
 - (b) Burglary I.
 - 2. Sexual acts by an adult with a minor which have potential for serious harm to the minor, such as:
 - (a) Statutory rape.
 - (b) Lewd acts on a child under 14 years of age.
- B. The sentence for Category V felonies shall be fifteen (15) months.

Section 7. CATEGORY VI

- A. Category VI felonies shall include the following types of crimes:
 - 1. Property offenses in which the potential for bodily harm is minimal and in which the property loss is significant, such as:
 - (a) Burglary II.
 - (b) Grand theft.
 - (c) Grand theft auto.
 - 2. Property offenses involving fraud and forgery.
- B. The sentence for Category VI felonies shall be nine (9) months.

Section 8. CATEGORY VII

- A. Category VII offenses shall be reduced to misdemeanors and shall include the following types of offenses:
 - 1. Petty property crimes such as:
 - (a) Receiving stolen property.
 - (b) Petty theft.
 - (c) Credit card theft.
 - (d) Operating a motor vehicle without the owner's consent.
 - 2. Improper sale of controlled substances such as:
 - (a) Dangerous drugs, marijuana, and narcotics.

Section 9. CATEGORY VIII

- A. Category VIII offenses shall be decriminalized. They shall include, but not be confined to, the following:
 - 1. The use and possession of controlled substances.
 - 2. All private consenting sexual acts between adults.
 - 3. Acts which are offensive but not directly harmful to others, such as indecent exposure.

ARTICLE V. MULTIPLE SENTENCES

Section 1. There shall be only one sentence imposed for a single criminal episode unless there are multiple victims suffering bodily harm or death.

Section 2. Where an offender is convicted of multiple offenses not involving serious bodily harm which are separately punishable, or when an offender is convicted of an offense not involving serious bodily harm while under sentence on a previous conviction, the sentences shall run concurrently.

Section 3. Multiple offenses involving serious bodily harm or death arising out of a single or multiple episodes shall be separately punishable, and consecutive sentences may be imposed.

Consecutive sentences shall not be imposed if the result would be a maximum sentence more than:

- A. One and a half times the maximum sentence for the most serious offense involved when no more than one of the offenses involves intentional death.
- B. Two times the most serious offense involved when more than two of the offenses involves intentional death.

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Government History Documentation Project
Ronald Reagan Gubernatorial Era

Anthony L. Palumbo

LAW ENFORCEMENT, EMERGENCY PLANNING,
AND THE CALIFORNIA NATIONAL GUARD, 1965-1974

An Interview Conducted by
Sarah Sharp
in 1983



MG Anthony L. Palumbo
Commander, 40th Infantry Division (Mech)

ca. 1983

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INTERVIEW HISTORY

In "Law Enforcement, Emergency Planning, and the California National Guard, 1965-1974," Major General Anthony L. Palumbo examines his career in local police work and in state military operations. As with Robert Houghton, the director for the law enforcement division at the state Department of Justice, whose interview also appears in this volume, Edwin Meese III recommended General Palumbo to the staff of the Regional Oral History Office (ROHO) as a potential interviewee for the Ronald Reagan Gubernatorial Era project.

During the Reagan administration in Sacramento, there were important efforts to coordinate military and civilian law enforcement around the state. Palumbo and the others involved in this effort modernized the concept of mutual aid as it was used during World War II. Among the other notable individuals in the California military during Reagan's governorship is Louis O. Giuffrida, currently the director of the Federal Emergency Management Agency (FEMA) in Washington, D.C., but who commanded the California Specialized Training Institute (CSTI) as a colonel with the guard earlier. Herbert Ellingwood, another interviewee in this volume, notes that interagency coordination for control of crime was in use in Alameda County by the 1930s, developed by Earl Warren, then district attorney.

ROHO interviewers usually open these sessions with questions about family history, but the results are often scanty. In this interview Palumbo goes into considerable autobiographical detail, beginning with a description of his traditional Catholic upbringing and the early crises he and his wife faced in their marriage. Not only is there faith history and other personal reflections, but Palumbo also explains how they came to settle in the Los Angeles area, where he went into the Beverly Hills Police Department in 1958. New career objectives led him into the California National Guard (CNG) in 1963.

Palumbo came into California state government in 1965 when he was appointed the first head of the Office of Emergency Plans and Operations by Governor Edmund G. Brown, Sr. The office's primary objective was to plan better "military support of civilian defense" efforts in California. On one level, to meet this objective meant better coordination of the CNG with local police efforts in situations of civil unrest, such as the 1965 Watts riots.

The Reagan administration was singularly interested in further development of the mutual aid concept, especially Edwin Meese who came into the administration as legal affairs secretary in 1967. But administrative enthusiasm in Sacramento did not guarantee success. Palumbo recalls the opposition expressed by one Kern County sheriff after Palumbo explained the CNG's new program: "Gee, that's really great, Colonel, but...before I call the National Guard, I have to be on both knees and down to one round in my weapon."

Palumbo attributes much of the opposition he encountered to a fear of martial rule, and he had a considerable task in encouraging acceptance of a stronger role for the guard.

Throughout the interview Palumbo focuses on the theme of better preparedness on the part of the state and local governments to meet natural disasters and other large-scale emergencies. At several points in the session he returns to the need for a Public Safety Agency in California which would provide the necessary coordination. He recalls with disappointment that a Public Safety Agency had been established during Governor Pat Brown's administration, but not properly organized.

All we had to do was to administratively move some of the departments to the right place and give that agency secretary the capability to develop existing technology, the ability to do research, development and forecasting and the authority to direct some state agencies with resources accordingly. The Highway Patrol, the military, and the rest of it. He would have all the ingredients. We're talking about fires, floods, earthquakes, the whole arena of potentials. Even today, we're still going through the same unpreparedness. We've had most recently the Coalinga earthquake. Are we organized for that? No, we just aren't. We have no central direction from the state level. Local government needs assistance.

Palumbo describes several other law enforcement planning efforts in which he was involved during the Reagan administration. Among these are the Governor's Select Committee on Law Enforcement Problems (1972-1973) and Project Safer California (1974). Palumbo's last appointment in the Reagan administration, in 1973, was as director of the Office of Criminal Justice Planning, the successor to the California Council on Criminal Justice and housed within the governor's office.

The taping session took place in General Palumbo's office in the headquarters of the California National Guard in Sacramento on 24 June 1983. Just returned from field maneuvers, the general was dressed in military fatigue uniform which somehow gave strength to his comments regarding the guard's recent history in the state. After the lengthy interview had been transcribed and edited, it was sent to General Palumbo for his review. He returned it within a few weeks and had significantly reworked many passages throughout the transcript, smoothing out grammar and wording as well as adding new information.

Sarah Sharp
Interviewer-Editor

10 May 1985
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

BIOGRAPHICAL INFORMATION

(Please print or write clearly)

Your full name ANTHONY LOUIS (LOU) PALUMBO

Date of birth October 25, 1929 Place of birth Reading, Ohio

Father's full name Gennaro Marion Palumbo

Birthplace Naples, Italy

Occupation General Contractor

Mother's full name Esther Rose Palumbo

Birthplace Chicago, Ill

Occupation Housewife

Where did you grow up ? Cincinnati, Ohio

Present community Sacramento, California

Education BA, MA in Public Administration

Occupation(s) Deputy Adjutant General, Army Division
Military Department, State of California

Special interests or activities Criminal Justice System, Law Enforcement Operations,
State Government Organization and Emergency Operations (Public Safety).

Born: Reading, Ohio
25 October 1929

Schools: University of Beverly Hills; Bachelor of Arts Public Administration, 1977; Master of Arts Public Administration, Jan 78; Associate Infantry Officers School, Infantry School, 1952; Chemical Biological and Radiological Course, Camp Gifu, Japan, 1952; Associate Armor Officer Course, Armor School, 1955; Special Tactical Course, Infantry School, 1959; Armor Advance Officer Course, Armor School, 1959; Nuclear Weapons Employment Officer Course, Armor School, 1959; Command and General Staff Officer Course, USA Command and General Staff College, 1962; Advance Civil Defense Management Course, Civil Defense Staff College, 1965; Advance Civil Defense Planning and Operations Course, Provost Marshal School, 1971; Civil Disorder Management Course, California Specialized Training Institute, 1972.

MAJOR GENERAL ANTHONY L. PALUMBO
DEPUTY COMMANDING GENERAL, ARMY DIVISION
CALIFORNIA ARMY NATIONAL GUARD

General Palumbo's military service began in May 1948 when he enlisted as a private in the 37th Infantry Division, Ohio National Guard. He rose to the rank of Sergeant First Class and was commissioned a Second Lieutenant on 20 December 1950. Mobilized with the 37th Infantry Division in September 1951, he served during his stateside tour as a Rifle Platoon Leader, Company Executive Officer, Assistant Battalion and Regimental S3, and later in combat in Korea as a Rifle Company Commander, 31st Regiment, 7th Infantry Division. He was released from active duty in March 1953.

He subsequently joined the 40th Infantry Division, California Army National Guard in March, 1954 as the Executive Officer, Company F, 223d Infantry Regiment. Shortly thereafter, the Division was converted to Armor. During the eleven year period as a member of the Division, his assignments respectively included Unit Commander, Assistant Battalion S3, G3 Air, Battalion S3 and culminated in his assignment as the full-time G3 of the Division in early 1964.

In February 1965 he was selected and appointed as the State's first Chief, Military Support of Civil Authorities and was transferred to State Headquarters and Headquarters Detachment (SHHD), California Army National Guard in Sacramento. In this capacity, he served as the principal staff advisor to the State Adjutant General in matters relating to military support required to supplement civil authorities from both the Active and Reserve Components within the State. He developed statewide plans and numerous procedures for use of military forces in support of civil authorities during civil disturbances, natural and man-made emergencies that were later adopted as the national model for which he acquired state and national acclaim and recognition. He designed and constructed numerous emergency operations centers for both civilian and military authorities -- one in Washington, DC, others at the state and local government levels.

Subsequent military positions provided a wide variety of command and staff experiences. During a civilian term in the Washington, DC area he joined the District of Columbia National Guard and served as an Operations Officer G3

and Chief of Staff. His assignments in SHHD, California Army National Guard have included Commandant of the California Military Academy, Inspector General, and Special Assignment Officer. He commanded the 79th Support Center, Rear Area Operations, July 1973 through April 1975. Thereafter, he was selected for an active duty tour with Headquarters, Forces Command (FORSCOM). During this tour he served as the Deputy Chief, Mobilization Planning Division, DCSOPS, and authored the FORSCOM Reserve Component Mobilization Plan, the mobilization exercise (MOBEX) series and numerous staff studies. His most recent assignments have been as the Chief, Security/Intelligence Section and, in a full-time capacity, as the Executive Officer, Army Division; Deputy Chief of Staff; Chief of Staff; Deputy Commanding General Ground Forces; Commanding General, 40th Inf Div (M); and Commander, State Area Command; on 8 November 1981, General Palumbo was reassigned as the Commander of the 40th Inf Div (M).

General Palumbo's accomplishments in his civilian employment have earned him a reputation of high respect among criminal justice and emergency preparedness communities, on both a statewide and national basis.

From 1958 to 1962 he served as a Correctional Officer for the Los Angeles Police Department, developing and implementing special rehabilitating programs. In 1971 he served in the United States Department of Justice, Law Enforcement Assistance Administration in positions of Law Enforcement Program Specialist, Chief of Riots and Disorders and Community Relations Section, Deputy Chief of the Police Division and as the Senior States Representative for Hawaii and Nevada. In 1972 he was appointed as the Vice-chairman of the Governor's Select Committee on Law Enforcement Problems, served as an Advisor and Special Assistant to Governor Ronald Reagan on matters of criminal justice and state government organization; served as the Director of the California Office of Criminal Justice Planning, the Executive Director of the Governor's Public Safety Planning Council, and as an appointed member (four year term) of the Executive Board of Directors of the California Crime and Technological Research Foundation. He co-authored the book "Controlling Crime in California", which is used extensively in the Criminal Justice system in California by administrators and research entities. This book is also used as a text in several California universities and colleges. He has published several other books in the criminal justice field to include comprehensive approaches to law enforcement, corrections, judicial and organized crime and numerous reports and staff research papers on "Standards and Goals for the Criminal Justice System".

In May 1981, he was appointed Regional Director, Federal Emergency Management Agency, Region IX San Francisco, California. In November 1981, he was appointed the Commanding General, 40th Infantry Division (Mechanized) in a full time state active duty status.

On 5 January 1983, General Palumbo was assigned full time state active duty status as the Deputy Commanding General, Army Division of the California National Guard Headquarters in Sacramento and also continues to serve as the Commander of the 40th Infantry Division (M) in a drill time capacity.

Affiliations: Commonwealth Club of San Francisco; California's Peace Officers Association; Arden Way Parent-Teachers Association, Past Vice-President, Sven Lokrantz Parent Group; Past President, Rancho Cordova Parent-Teachers Association; Eagles, El Camino High School; National Guard Association of the United States; National Guard Association of California; Armor Association of the United States; Association of the United States Army; Reserve Officers Association of the United States; Executive Board of Directors, California Crime and Technological

Research Foundation; Past President, National Guard Association of California; Member, Civil Disorders and Community Relations Staff Support Task Force; President's Commission on Criminal Justice Standards and Goals; Advisory Boards of numerous states concerning Law Enforcement Management and Operations and Community Relations Programs; Advisory Board, Citizens for Law Enforcement Needs; Advisory Board, Sacramento Area Commerce and Trade Organizations; Vice President Knoll Lodges Families and Friends; member of NGB VISTA 1999 Task Force.

Citations and Awards: Combat Infantry Badge; Legion of Merit; Meritorious Service Medal with bronze oak leaf clusters; National Defense Service Medal; Korean Medal with two service stars; Armed Forces Reserve Medal with three hour-glass devices; Armed Forces Achievement Medal with two bronze oak leaf clusters; United Nations Service Medal; California Medal of Merit; California Commendation Ribbon with Pendant; California Service Medal with silver redwood cluster; California Outstanding Unit Award Ribbon; California Federal Service Ribbon; California State Service Ribbon with three bronze diamond devices; California Drill Attendance Ribbon with gold star; United States Army Forces Command Staff Insignia, Presidential Unit Citation and Korean Presidential Unit Citation.

Civilian Occupation: Deputy Adjutant General, Army Division of the California Army National Guard Headquarters, Sacramento, California, 5 January 1983.

I FAMILY RECOLLECTIONS; EARLY CAREER NOTES

[Date of Interview: June 24, 1983]##

Sharp: When you get to fill that questionnaire out, we'll have the basic information, like your parents' names, where they were born, and where you grew up. I wonder if there were generally some notes you'd like to make about your childhood, so we have a better sense of who you are. I know you grew up in Ohio, what you might like to say about that. We could just start there.

Palumbo: Do you want me to just organize that now?

Sharp: Sure, we're on. Some people start with religious influences. We could start there.

Palumbo: I guess I have to start with my dad, who was an immigrant to this country right after the First World War. He had served in the Italian army in the artillery and had been severely injured in the leg and had been gassed in combat. His family was from the area of Naples. He came to this country for medical treatment, decided to remain, and began in a very, what I would term by today's standards, very sub-financial circumstance, but with a lot of talent. He was a stone mason. He had some engineering background. He has kind of served as my impetus; my goal in life was to be just like my dad. He had a small handicap as far as speech was concerned--primarily articulating the English language. I remember my dad as being a very strong, forceful and aggressive person. He was a general contractor. He rose from just a stone mason to running his own construction company--building highways, homes and business offices.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 54.

Palumbo: During the Depression, he lost a lot, but he recovered from that. I can recall special kinds of things that he did during the Depression, like carrying truck loads of groceries to families every week--to people that didn't have the wherewithal. Eventually he built the business back up to a large construction firm again. There were times when he had to negotiate contracts, or we ended up in court on some dispute or other, he always represented himself. Under those kinds of pressures and that kind of situation, there wasn't any question about what Mr. Palumbo meant. He was very forceful, in any kind of pressure circumstance.

So he was a person, although he had some limitations, who rose above it. He was a self-made man in many ways. A fine engineer and a fine builder, and I did a lot of that in my early life.

I recall quite often that I was always told you had to work with your hands, you had to learn how to be a contractor, or you had to learn how to be a stone mason. During my high school years, at least one day a week I was taken out of school to go with my dad on a job, because I had to learn a new trade. I could plaster at age sixteen alongside the union plasterers that he had in his construction firm and keep up with them. I could lay concrete block and stone. I learned all the fundamentals of carpentry.

Later on in my early life, adult life, that became important to me, because that's how I survived. I had a number of medical tragedies in my family. In order to make money to pay medical bills I had to get out there and work at two or three jobs. I could do and did all the various trades in the construction field.

In addition, by the time I was eighteen, I was registered in the states of Ohio, Kentucky, and Indiana as an architectural designer. So in addition to doing all the skills in the construction field, I had a great appreciation of the architectural side, designing, putting together all the paperwork necessary for FHA housing and all that business. So he probably had the greatest influence. He came from the old country, with old country values, and a real dedication to the United States because of what it was able to provide him and his family.

Right from the start, as I got through high school and sometime in my senior year, that influence caused me to take the West Point exam, where I ended up, I think, second on the list. I took the

Palumbo: oral and physical and came out second, and was ready for an appointment to West Point when I was offered a direct commission in the Ohio National Guard and I took that.

At that time my father incurred a physical disability, and I had to take over and run the construction company for about a year and a half. I was about eighteen years old at that time. We had a large subdivision under construction. That was about 1951, when the Korean war began. As a result of that episode, all of our Ohio National Guard units were called up, and I was mustered into active federal duty.

My dad's morals and his dedication to the country influenced me in many, many ways. I guess by the time I was sixteen, I began to criticize, as most young people do, in your early teens, that, "Gee, my parents are very restrictive. They really don't understand what the world's all about." Then sometime early on, before you hit twenty or twenty-one, you begin to realize how tremendously intelligent they are.

Sharp: Was your mom a special influence at all?

Palumbo: Yes. She is still alive, of course. My dad passed away about ten years ago. We had a large family. But my mother was always able to manage, and regardless of how many dollars were available, there was always plenty of food on the table and everything that you basically needed to survive. But, more importantly, the moral aspect of her. She is a very religious person.

Sharp: Catholic?

Palumbo: Catholic. Her side of the family, of course, was in this country. She was a second generation. My father, as I said earlier, was originally from Naples. They met and were married in Reading, Ohio. My mother's family were from fairly substantial means. They had all kinds of business activities in Reading, Ohio. They ran the fruit business, had grocery stores and a lot of real estate.

Hers was a large family also. There were five brothers and three sisters. But very, very close. The Dilberts in Reading were very substantial people, well thought of.

Sharp: You said you were from a large family, as well. Are you the oldest, in the middle, or at the bottom?

Palumbo: I'm the oldest. Three brothers and three sisters. The first child was a girl, but she died on the day that I was born. That kind of put me in a special position from the rest of the family with my parents, and I guess I took advantage of that for the first fifteen or sixteen years. [laughs]

Sharp: Are they spread out all around now?

Palumbo: They're all in Ohio, still there. They never chose to move.

Sharp: So I have you coming to Los Angeles, to the police department.

Palumbo: I was called up in 1951 for the Korean service. As a matter of fact, I had gotten married on the fifteenth of September in 1951 [Jean Kathryn LaFeber], and we were coming to California for a two-week honeymoon when I received my orders to report for active duty within three days. Rather than to come to California, I went to Fort Benning, Georgia, and my wife followed me about three weeks later.

I completed my training in officer basic, and then I was shipped to Fort Polk, Louisiana. Within six months, I was the first officer sent overseas out of the Thirty-Seventh Infantry Division to Korea. In the meantime, my wife's family had moved from Cincinnati to San Fernando Valley, and we decided that my wife would come to the coast and stay there while I was overseas.

Sharp: You came back to California, then, once you came back to the United States?

Palumbo: When I left for overseas, my wife, of course, was pregnant, expecting a child. I joined the Seventh Division in Korea, was there about five and a half months, as a rifle company commander, when I was notified that my wife had given birth. Originally, they told me it was twins, and then several hours later a chaplain came up and said, no, it was just a single child, but that she was in very serious physical condition. Within another two hours, I was called by the Red Cross and said that I had gotten an emergency leave to go home, that the child was not expected to live, but they couldn't tell me what was wrong.

So with that and official orders, it took me about eight days to get out of Korea and into Japan, still not knowing what the real problem was. By the time I hit Japan, I did call home. My daughter was still in the hospital. About five days later I finally arrived in Los Angeles. They took me to Children's Hospital in Hollywood. A surgeon met me and explained that my

Palumbo: daughter had all kinds of physical complications, the bones in the skull were fused together, and that she was not expected to live. Having come from Korea, where I was deeply involved in combat, and being extracted from that environment under confused conditions, the way the doctor explained it to me, I just was not able to cope with that. His suggestion was, "Why don't you just forget this child, go home, and have another child?" That wasn't something I could accept. I had to strike out at someone, and he seemed to be the most logical person. So I struck him. That was unfortunate because later on he played a key role in her survival.

About five days later, we received a telephone call at about two o'clock in the morning from the same surgeon, who said that I should come down immediately to Children's Hospital--we were living in San Fernando--and that our daughter was passing away. She wasn't expected to last another two hours. We were staying with my wife's parents, so I said I would go down and make the necessary arrangements. I got in the car and drove down there, and as I approached the hospital, the doctor was out on Hollywood Boulevard waiting for me, and he said, "Mr. Palumbo, I don't know how to explain this to you, we gave your daughter a blood transfusion, and we think she's going to come out of it."

Well, that was the start of a long series of events in our daughter's life; for about sixteen years she has had twenty-one major surgeries. She had cerebral palsy at birth. But because of my religious training--that God sends you a cross to bear but never more than your capacity--we could and did accept her condition as one of our crosses to bear.

I was initially given a three month emergency leave from the service and after the Army evaluated our circumstances, I was given a hardship separation. I immediately went to work in the construction field in San Fernando Valley to provide an income to pay the tremendous medical bills.

Sharp: Do you have other children, too, now?

Palumbo: Yes. I had three children following Kathy, all strapping boys and healthy--Jeffery Michael, Anthony Louis II and Steven Arthur.

Sharp: How did your wife cope with this first birth and all the problems?

Palumbo: With great difficulty. Kathy's medical problem was one of a kind at that time. Oxycephalous, I believe, is the term that they used to describe her condition. The state picked up the tab for all the

Palumbo: hospitalization providing we would allow them to use her medical treatment for study and as a test case. As a result of what they learned from her experience, today we have fantastic new approaches and techniques.

I recall one of the typical experiences associated with Kathy: years later as a member of the California National Guard and meeting a new surgeon who had recently joined our battalion. We were at a military ball. My wife is very articulate as far as the medical terms associated with Kathy's medical condition are concerned and quite able to carry on an interesting conversation with medical people in that regard. Having this surgeon and his wife at our dinner table and, in the course of discussion along those lines, he began telling us of his experiences--he was newly assigned in a civilian capacity at Children's Hospital. He began telling us about this fantastic case that he had just seen that day, a one-of-a-kind of miracle. During his first day of orientation. He was describing it, and, of course, what he was describing, unknown to him, was our daughter's case. My wife was contributing about the circumstances, that this happened at such and such a time. Somewhat surprised he said, "Jean, how come you're so acquainted with this?" Finally she confessed that, "This is our daughter." Of course, it hit him like a ton of bricks. But that's a small sample of the kind of experiences we've had with her condition.

Her development over the years has just been miraculous. She's been in and out of hospitals, obviously. She's thirty-one years old now and doing very well. We have her home quite often. She has a fantastic vocabulary, very articulate. Just a pleasure to have around.

Sharp: That's a real blessing.

Palumbo: Oh, yes. She's been an inspiration to us and anyone that has contact with her. A real live miracle.

Sharp: You stayed in the construction business, then, for a while?

Palumbo: I stayed in the construction business until the time I joined the Los Angeles Police Department. I believe that was in--

Sharp: I have '58. Is that right?

Palumbo: Yes, 1958.

Sharp: Fifty-eight to '62?

Palumbo: Right. I was out of the military for about fourteen/sixteen months, because of the medical problems, and my major effort was to take care of the necessary bills that had been created, not knowing that the military could have paid for all those things. I never pursued that. As a second lieutenant, I wasn't that smart, I guess.

I went about my business. I was building warehouses and residential homes, doing everything I could in that line. I worked for a construction firm as foreman and also prepared construction contracts. I eventually got involved with a terrazzo installation company, and I actually did very well installing, bidding, etc. Because it provided greater return for the labor and involved a substantial amount of dollars, that terrazzo business really put me on my feet financially.

Then eventually, I joined the California National Guard. I became exposed to people in the law enforcement field who continually tried to convince me that, "Hey, you're young enough; you should join the Los Angeles Police Department. You ought to really get involved." That's eventually what I did. I gave up the construction business and went to work for the Los Angeles Police Department.

My first duty assignment was in the LA City Jail and walking the streets, and eventually I ended up in the Los Angeles Rehabilitation Center as a correctional officer out in Boquet Canyon. I had a caseload of about 212 inmates. They were sent to the Rehab Center for 180 days for intoxication. Had a tremendous exposure to all walks of life and the circumstances, professional people as well as the common laborer. That gave me another insight to life that I had not had before.

I worked for the LAPD about five years, I guess. On the recommendation of one of the California National Guard General Officers in Los Angeles, I was asked to come and work for Headquarters, 40th Division, California National Guard for a four or five month period as a replacement for another officer who went to a short service school in another state. At the same time I was working for LAPD, I also developed an expertise in the nuclear radiation field. I had completed a nuclear course in the military and had qualified as a prefix 5 (Nuclear Weapons Employment Officer). I had intended to go to work for the city of Los Angeles as a Radioactive Waste Inspector. Whenever reactors are used, the radiation waste must be inspected to determine whether or not it is within authorized levels to be discharged in the city's waste system. However, I accepted the temporary military job.

Palumbo: I got so tied up with that military job that I stayed, resigned my city job and began to climb the military promotional ladder. I became a full-time G3 (plans, training and operations officer) for the 40th Infantry Division in Los Angeles and stayed with that until 1965,

As a matter of fact, prior to my departure in 1965, I had also worked with the LAPD in joint military-civil disturbance planning as the military liaison officer for potential disturbances in the city. There was a two-year period of some concern for possible civil disturbances. The California National Guard had been directed by the governor to do a selected planning effort with each of the several police departments throughout the state. I was the individual designated to do planning in the Los Angeles area. All my military training up to that point had been as a commander or as an operations officer doing plans. That liaison assignment fit right in with my interest and qualifications, and because I did have a police background, I could appreciate the problems from both the law enforcement and military perspectives.

II THE OFFICE OF EMERGENCY PLANS AND OPERATIONS, 1965-1970

An Overview of OEPO: Transition Between Governors Pat Brown and Ronald Reagan, 1965-1967

- Palumbo: In 1965 I was selected by then Governor [Edmund G.] Brown, Sr., as the state's first Chief of the Office of Emergency Planning. That's when I moved from Los Angeles to Sacramento.
- Sharp: This Office of Emergency Plans and Operations, that started in '65?
- Palumbo: In 1965, January of 1965.
- Sharp: How did the OEPO originate? Was it out of some of the old Earl Warren civil defense ideas or--?
- Palumbo: In 1964, the Secretary of Defense proposed a federal budget that would provide states a new concept and approach for emergencies. He proposed, based on a state's total population, a number of emergency planners to address civil defense issues. In California, I think we were authorized six full-time planners, of which I was the chief. Their mission was to concentrate on military support to civil defense. They were to work originally in the governor's office. Governor Brown, Sr., at that time, decided that rather than put them into his office or the disaster office, which he controlled--it was called the Office of--
- Sharp: California Disaster Office? CDO?
- Palumbo: Right. He decided to put this planning effort in the Military Department. About six months later DOD decided to change the title from military support of civil defense to military support of civil authority. Of course, that changed the scope of planning from just civil disaster, civil defense, to a wide range of support considerations.

Sharp: I had some information from Mr. Meese about emergency planning and operations. Apparently he took on this area as part of his work as legal affairs secretary. Mr. Clark, Bill [William P.] Clark, who was then the executive secretary in the governor's office, gave him this as Mr. Meese's special interest, I presume. I thought it might have come about because of his earlier work in the Alameda County district attorney's office, but I was guessing about that.

Palumbo: I think that's true. During Governor Brown, Sr. administration, my office played a major role in all state-wide civil disturbances and other emergency actions beginning with the Watts riots in Los Angeles in 1965. Since we were part of the State Military Department we operated under the control of the State Adjutant General--then a Major General Roderic Hill. We performed coordination and monitoring on a direct basis with police and fire departments and provided National Guard support teams over extended periods of time. It appeared that after Watts, the San Francisco, the Berkeley disturbances, that every weekend we had some kind of alert requiring National Guard assistance of some sort. Then the state elections took place in November and Reagan became the announced winner, all emergency requests and reported incidents came to a sudden stop. We went from a period of having guardsmen on duty almost every weekend to a period of time, approximately six months, where we had no request for assistance or reported incidents. I can't explain this situation. It just happened.

We had a tremendous working relationship with Governor Brown, Sr. and his staff. For example, we would get calls for assistance at two or three o'clock in the morning direct from police departments. The system was set up so that those calls would come directly to me at home or wherever I was. Then I had the authority to move with whatever forces that were required. In those days that was a very small force. If it got to be a large force, obviously we had to have the Adjutant General involved. When Mr. Reagan became governor, the same pattern for handling emergency requests was initially established.

It was in that connection that I met [Edwin] Meese for the first time (he was the legal affairs secretary) and Bill Clark was Reagan's chief of staff. Meese's background, of course, was military oriented. He organized his workload very effectively, using the military approach to problem solving. The military technique outlines a systematic step by step procedure that insures all considerations of a problem are addressed. We had a good rapport established immediately. I knew how he worked; I knew what he was looking for.

Creation of the Emergency Planning Council in 1967; Coordination
With Local Law Enforcement

Palumbo: As time passed and more emergencies arose, of course, we began to work very closely with the new governor's office. As an emergency occurred, we would report to the governor's office. I think you have a copy of the original dictation that says, "This is how we're going to organize for emergencies."*

Sharp: Right.

Palumbo: Well, my office, because we were operations and planning oriented, and had the access to a lot of equipment, we actually went into the governor's office and established an operations center. We put up the "sit boards," the situation boards. We'd keep status on commitments. We were better organized than the disaster office who didn't have that kind of orientation.

Sharp: The disaster office was totally civilian, is that right?

Palumbo: Yes, that's correct.

Sharp: From what I could tell with the advent of the Office of Emergency Plans and Operations as part of the [California National] Guard, I think, or it seems, that that was the first time that there was a putting together of--

Palumbo: A unified--

Sharp: --civilian as well as military.

Palumbo: Yes, a unified organized state effort with civilians in control. I did find during my visits initially with sheriffs and chiefs of police, that the California Disaster Office had little or no

*General Palumbo refers here to an "Emergency Operations Plan" developed by 29 August 1967 by Edwin Meese. This plan established "The procedures and assigns responsibilities for the handling of major disorders and other disaster situations by agencies of state government." From papers of Edwin Meese III in the Ronald Reagan collection at the Hoover Institution. This plan outlined the Emergency Planning Council.

Palumbo: credentials with them. CDO was viewed as a coordinating agency with little authority, resources or expertise and someone whom they had to tolerate. On the other hand, they also viewed the military with some suspicion. It was apparent that the military had little to gain by providing them support and wasn't looking for visibility, prestige or accolades. We were there to do a support mission. It was also the governor's philosophy that the military doesn't move in to take over anything; it comes in and supports the local police chief or sheriff.

We found that there was a tremendous misunderstanding by the sheriff and police chiefs about what the National Guard could or could not do, and how would you use them if you asked for them? If you were asking for them to assist you, what's their capability? How do they fit in with your forces? If you ask them to go into the streets, how do they act? Do they act like a policeman? Can you put one out by himself?

Obviously the answers are complex. The California National Guard is a military organization. The individual soldier is not trained like a police officer. Generally, he doesn't act independently. He acts and performs as a member of a team. In terms of tasks you have to give that team a military mission. The sheriff, chief of police, must tell the military what kind of a job or task they need to have done. Then that task or job needs to be interpreted into a military (in terms of terminology) mission for that military commander. You don't put a guardsman out to do a policeman's job; he's not generally adequately trained for law enforcement tasks. So you put a policeman along side guardsmen to make the actual arrests, to provide the technical advice, and the guard team then works under that policeman's technical assistance and guidance. The working relationship between my office and various sheriffs and chiefs of police provided an excellent opportunity to closely observe and evaluate their department's planning and actual operations. For the most part there were serious shortfalls in their organizational approach and existing procedures for major emergencies involving an influx of large numbers of additional personnel resources.

We went to Mr. Meese with the problem. We all agreed that we had some outstanding law enforcement departments in the state but most were not organized to handle large numbers of reinforcements-- law enforcement or military. We jointly agreed to establish a training vehicle that would provide the chief or sheriff the opportunity to exercise his principal people in their community environment using their procedures and their organizational structure

Palumbo: in an escalating emergency situation. The objective would be to identify shortfalls. The chief or sheriff would establish the primary training objectives, and we would then form a joint planning group (California National Guard and law enforcement planners) who would then develop the incident messages creating an escalating emergency situation which eventually required commitment of the concerned law enforcement department, reinforcements from neighboring jurisdictions, the county, CHP and finally the California National Guard.

Initially, we concentrated on San Francisco and Los Angeles. As we branched out from those efforts, I think by 1970 we were running something like sixty-five separate exercises in a twelve-month period, all designed to achieve the objectives that a particular sheriff or chief had in mind. These exercises were called CABLE SPLICERS. At one time I think we had in the Los Angeles county exercise, there were something like twelve or fourteen other jurisdictions involved. We made sure in each exercise that whenever CHP, California National Guard resources were employed, that the governor's policy and philosophy of employment was clear and evident. In regards to employment of the California National Guard, the governor's philosophy is the standard operating procedure for the military and each military commander must abide by it accordingly. Each state governor must establish those procedures and policies early on in his administration. Governor Reagan through Mr. Edwin Meese established those policies within the first two months of his administration. These policies included such things as: Who is in control? When do you use your weapon? When do you fire your weapon? What sequence and degree of force do you use? Those are philosophy things that only the governor can establish.

##

Sharp: You mentioned the first times that you would go into some of the local areas, that they were not wary of you, but at least not well acquainted with your office and the work, and how the guard might operate. They were interested in being in control of the situation?

Palumbo: No question about it. One of the greatest fears that a chief or a sheriff has is, "Somebody is going to come in and run my city or my county." I think that there is some validity in that concern, because in the past, the military has always talked about martial rule. Simply put, martial rule means that the local established authority is subordinate to the military commander.

Palumbo: In our judgment, and that was also Mr. Meese's philosophy, legal philosophy, our statutes in California do not permit that, that martial rule is a very rare circumstance occurring only in situations of an attack by an enemy force on the state. The statute does provide that if a sheriff is not physically able to exercise his office, then an adjacent county sheriff is responsible for assuming that responsibility. In that circumstance, there's just no way that martial rule could be affected legally except in an armed enemy attack.

It was with that background and context that I'd approach a chief or sheriff and explain military support. I found that for some of the more remote counties, it was a very difficult thing for them to accept initially. Not having an established credential, they were very leery about having the military involved. I had to make that personal contact in each case, in every county and every city, every major city.

Once we were able to explain the military support concept, then I would say, "I would like to come in and run a joint law enforcement/military exercise with your department. Here are some things or list of priorities or objectives you might want to consider at this time. If the California National Guard has to respond to your call for assistance in an emergency situation, generally based on our analysis of your department's resources, mutual aid, etc., we would expect our first commitment to be five hundred troops" (or whatever number we had determined for that city).

I had done a detailed analysis of all principal cities in California--city by city to determine some logical number of military troops that might be required on a first call for assistance. Let's take San Francisco for example. During an escalating emergency situation, with the availability of mutual aid forces, all shifts on a 12-hour operating basis, etc., if additional forces were still required, the California National Guard would be prepared to provide 2,000 in street forces initially.

I think in our working criteria, which is now unclassified, at that time I think we figured that if the San Francisco or Oakland officials called for the National Guard, the first increment would be two thousand troops. Los Angeles city, the same. So based on that analysis in talking with the sheriff or the chief, I'd say, "Here's what we've determined your initial needs might be. With that kind of troop support available to you, how would you organize your staff to handle this augmentation?"

Palumbo: I found most departments were not prepared or organized staffwise to receive that kind of additional support. So sometimes in advance of an exercise we'd provide them a military orientation on the staff procedures. How does the military staff organize? Well, you first must have assigned a number of primary staff members who are concerned with personnel, planning, operations and logistical support matters; someone who's in charge of personnel matters; someone who's in charge of intelligence matters--gathering or collecting pertinent information, evaluating that information to produce intelligence and making predictions; someone who's in charge of operations that could put together the concept, course of actions and the operational procedures to restore law and order and a degree of normalcy to a community; teams that are going to go out and try to handle a given problem; then someone who's in charge of providing all the material to support and sustain such an operation--the logistical effort.

Initially, even though you'd provide them a military approach to staff organization and operations as a guide, the appropriateness doesn't have full impact until the military staff appears on the scene with their situation board and resources and the exercise begins. As the incident messages begin to build up and a department's resources become fully committed, and still the situation continues to escalate mutual aid--finally the California National Guard is called in--each of these sequences of events provide an excellent means of evaluating a department's procedures and techniques to deal with large scale emergency operation of all types--fire, floods, earthquake and civil disorders. They'd realize, without our trying to tell them or making it obvious, that, "Hey, we need to reorganize. If we've got to call in other forces, we have to be prepared to give them timely missions, make sure we can sustain them in field operations for a period of time, and insure they operate within our policy guidance." Each department is an entity within itself. They have their own philosophy on the degree of force, etc. In those days even the booking procedures from one jurisdiction to another were different. There were no two alike. It makes the job of supporting their jurisdictions much more complicated.

During the course of an exercise, the shortfalls became very apparent. You would find after the exercise was over, without making a big to-do about it the department would go about reorganizing itself. Next year when you came back to run another exercise, they'd sometimes change the objectives, but you'd see a much better organized and improved effort.

Palumbo: In my judgment, reviewing hundreds of exercises that were conducted, they were always done on the basis of what that chief or sheriff desired--what objectives he had in mind.

Also, another key point each chief or sheriff understood that when he called for military assistance, the military commander would support their objectives. We never had the governor impose his philosophy in any of those exercises, that I recall, or dictate to the local sheriff or chief, "You will do this," or "You will not do that." I never had that experience in my entire career, whether it was this administration, Reagan, or any other since. It was always left to the discretion of the local chief or sheriff.

After the Watts riots, the Los Angeles police department completely reorganized their operational setup. Others made minor and major changes. I recall one statement by a certain official that was typical and unforgettable: "Gee, Colonel...", after I got through with my initial spiel explaining my purpose--I had one sheriff--I'll never forget him--just a fine gentleman, but his attitude about the National Guard was oriented to martial rule. He said to me after I got through with my spiel, "Gee, that's really great, Colonel, but," he said, "before I call the National Guard, I have to be on both knees and down to one round in my weapon." That was a statement made in 1967 by the sheriff of Kern County.

That gentleman, about seven months later, after we ran the first exercise, became a very close personal friend. His operation was just as ideal as you could ask for. But it took some time to convince him of our motives.

Sharp: I'm sure. Let me push on a little bit.

One of the first notes about your work in Mr. Reagan's administration that I had seen was a summer, July '67, memo from Mr. Meese to Bill [William P.] Clark about some of his discussions with General Glenn C. Ames, and his requesting you to work with Assemblyman Charles Conrad on some crowd control legislation. I wonder if you recalled it and how that might have worked that you were working with an assemblyman on a bill.

Palumbo: Assemblyman Conrad was convinced that the best way to control or disperse unlawful crowds in riot situations was by the use of chemical agents. CS was the agent that the active army was safely using. He was concerned with the kind of technique, what kind of procedures would you use on the streets, how best to employ the

Palumbo: the agent, etc. In our judgment, CS was a very safe agent, but it should be used only as a matter of last resort. It should be used before any other major degree of force, for example bayonets, firing of a weapon.

The agent could be used at a safe distance, to direct the crowd in whatever direction you desired and insure that they, the people, would have time to react and seek an avenue of escape. In other words, you didn't want the agent thrown into the middle of a crowd, and cause them to go in all directions.

What you'd prefer to do with it, and that was the technique that was developed with Assemblyman Conrad, was to throw it in front of a crowd, well beyond them, so they would not get the immediate effect of it, but they could see the cloud, they could get a little whiff of what was coming, and then get away from the area. It was not designed to disrupt or cut off escape routes. You always must have a way--an avenue of escape that people can use or you could create a deadly panic situation.

Sharp: Was this a matter of actually passing legislation?

Palumbo: Yes. We did expose him to the chemical agent without any protection whatsoever. We took him to one of the armories. He said, "Before I introduce any legislation, I want to know what the effects are." We had a doctor there. We had the entire operation, and he went through the full thrust and concentration of CS gas far in excess of any agent exposure we would have in a disturbance situation. Of course, he came out of that experience convinced that, "By golly, this isn't as bad as I thought."

But it does stop a person. If you get the full concentration, it will stop you. It will put you down on the ground.

The concern that the Reagan administration had was that, "We don't want to expose people with serious physical problems." If you throw it into a crowd and those people are there among the crowd, you don't have that discretion. So employment has got to be adequately planned, announced and executed to prevent unnecessary injury.

I don't recall whether or not we ever got a bill. I think Assemblyman Conrad did introduce a bill in the assembly, but it was in regard to what kind of technique we would use.

Sharp: Is CS tear gas?

Palumbo: Yes, exactly the same. Both acronyms apply.

Sharp: This emergency operations plan, this two-page memo that I sent to you, that was fairly early in the administration.* It was August of '67, so not even a full year into the term. Now that, I think, must have implemented what was called the Emergency Planning Council. Is that just about right?

Palumbo: That was about right. That document provided the legal basis for the Military Department (California National Guard) to go out and talk to law enforcement agencies and develop appropriate exercises. Then we, in turn, developed a support plan for each of those jurisdictions.

For example, a map was made of each metropolitan area. [draws map] We would overprint on that map all the key/critical facilities in that jurisdiction identified by the law enforcement, the fire services, public utilities, Federal Communications Commission, etc. Based on that, you could segment that community and determine if we had an emergency in this area, how could we isolate the area. What would be the boundaries. That kind of planning applied not only to civil disturbances, but was equally applicable to other emergencies such as fire, floods, earthquakes, as well, the entire emergency spectrum. Based on that single planning technique we could determine how many troops it would take to seal off a given area, protect vital or critical installations, etc. We had a legitimate way of developing support requirements.

At the same time, our approach focused attention by all agencies for the need to standardize one given map of that city for emergency agency use. We found that very few agencies in a given city used the same map for operations. The fire service had their own. The police had theirs, the county sheriffs used something else. The public utilities had theirs. If we came in to support them, we didn't know what to use. So we encouraged the establishment of one type standard map for a given city. Then we had tons of those things prepared, each with the overprinted classified information.

In going about the task of accumulating critical data we uncovered things that you wouldn't believe. For example, in this one city, there was a jet fuel pipeline that came out of the ground in the downtown section, and it ran exposed above surface for about

*See note on p. 11.

Palumbo: maybe fifty meters. Then it went back down into the ground. It fed fuel into the local airport. If you really wanted to shut that city down, all you had to do was set a detonation near that jet fuel line. Highly volatile.

Other potential areas included communications, drinking water, telephone storage areas--it just goes on and on and on. No one in a city really had been tuned into these potentials until this planning effort began. And it was that directive (August of 1967) that provided the authority and direction accordingly.

Sharp: Why wasn't this all coordinated before?

Palumbo: I'm not sure. Well, you could ask the same question at the local department, the local city. "Why you, chief of police, and why you, sheriff, why you, fire chief, or why you, city manager, why haven't you looked at your total jurisdiction from an emergency potential point of view?" and probably get the same answer.

I guess from their parochial point of view, that they never had a threat of the magnitude or potential they couldn't handle within their own resources.

You go day in and day out, they are attending to the major issues that come to bear on a community. "The garbage collectors are on strike this week." "How do we spread out budget to handle new sewer and road repairs?" A multitude of problems all demanding attention and resources--people and money. For the most part, we are generally victims or establish priorities based on our experiences. Unless it happened to us in the past we really don't expect those kinds of emergencies to happen to our community."

There are jurisdictions that worry about major earthquakes, because there is a good potential here in this state. Very few worry about tornadoes, major floods or hurricanes. We just don't have those things happen here very often.

When you talk about strikes or walkouts in vital public services, most officials felt the county/state would come in and help. But nobody really planned beyond that.

I think the Disaster Office did have a mutual aid plan for law enforcement and for fire services, and they were doing some things along that line. But there was little encouragement and direction from the state to the county or city saying, "Hey, fellows, here is our plan, this is what we've all got to do to make it work."

Palumbo: Obviously the Watts riot changed attitudes and established some reality that: "This can happen to us, and it can happen in our city." Until the Watts riots, no one really paid much attention to civil disorder. And no single agency in the state outside the Military Department had the resources to cope with that kind of major disturbance.

I described to you a map, an approach, that we used for planning. We had to go into a jurisdiction and get their cooperation and assistance to develop that technique. A rather simple and basic approach. In fact, the first one was Oakland. They were very receptive, because of their prior experiences with the U.C. Berkeley disturbances. They were very receptive and supportive of it.

When we started working San Francisco, of course, the process became more complex. But we had developed good procedures to a high degree of expertise. Finally we got to Los Angeles. It took us two and a half months to develop that entire complex. It's a major job that no one was funded for. No one could pay to have the maps overprinted, or had the personnel resources to accumulate all the information. We did that with our planning staff from the California National Guard. To help pay for the many overlays and related expenses, we got the Department of the Army to help.

Whatever costs were incurred for emergency planning and exercises, they were never passed on to the local jurisdiction. It was a cost that we bore at state and at national level.

Sharp: This may be one of those meetings that you were telling me about, but I saw a note that in August 1967 you went to a meeting with the LA County sheriff and several chiefs of police along with Mr. Meese and Charles Tyson, a couple of California Disaster Office people (Charles Samson and Wayne Kranig), and a few other people. From what I could tell, there were emergency preparedness issues that were discussed.

Palumbo: Yes, based on our experiences it was decided in the governor's office that we needed a uniform state approach for major emergencies. The memo that you alluded to earlier, the fact that there needed to be some kind of planning direction from the state level, later led to the establishment of the Emergency Planning Council. Initially it was decided we would gather together some selected and highly respected law enforcement people, sheriffs and chiefs of police, a couple of elected officials, and some selected military commanders and put them for two days, shut off from the rest of the world, at Camp San Luis Obispo and openly and frankly discuss statewide

Palumbo: emergency situations, state policy, guidance and direction required. We looked in depth across the emergency spectrum for the state and what we could expect for the future. And we did!

Many issues were put on the table. It was clear that some officials felt the military lacked credibility with law enforcement. They suspected that the military wanted to come in and run their jurisdiction.

As I said, from that meeting, that two-day session, all kinds of issues were discussed and put on the table, no one trying to hide anything, no one had a secret or hidden agenda. Their attitude was if you were critical, be specific. "Let's hear what you have to say and see if we can't resolve it." From that meeting came a uniform state approach on planning and emergency operations and ultimately a decision in the governor's office that we needed to establish a central figure who could relate directly to the governor and have the authority to direct certain state departments to take emergency action and to keep abreast of the current emergency situations within the state. That's how the Emergency Planning Council developed.

Initially it included the Military Department, and the Disaster Office. I think at one time it also included the Department of Forestry. During certain periods of the year when you'd have the most potential for fire, floods, or whatever, the agency with prime interest attended. The agency secretaries were always invited to those meetings. They were initially set for once a month. On other occasions, they were a minimum of once a week. Often, when an ongoing emergency of any degree could involve state resources, they would be daily. Ed Meese chaired on behalf of the governor, and quite often the governor sat in on those meetings and heard the discussion. Each agency that had an expertise in a given area would make a presentation or recommendation on a situation or emergency circumstance. Then decisions were reached and appropriate actions directed to departments.

We had a standard operating procedure that if an emergency occurred, the first state department that would hear about it would get the information to the Disaster Office and to the governor. In cases involving the law enforcement agencies with civil disturbance problems, the military had an excellent rapport established, so we'd get the initial call direct. We would activate the emergency operations center of the Military Department and provide information to other agencies accordingly. As time developed, we were directed, "immediately when you get information of an escalating

Palumbo: nature, provide a military liaison element to that department." We developed what we called a FLE. A FLE is an acronym for the Forward Liaison Element. It consisted of three military people in civilian clothes with prescribed equipment and material. That material may be nothing more than a overprinted map of that jurisdiction and the list of our capabilities and our response time in the event of a disturbance, and an inventory of all of our equipment--engineering equipment or what have you.

Immediately when a law enforcement department called [snaps fingers] with information of a potential emergency we'd send that team down there, and within an hour or so they'd be on the scene. Then they had the responsibility of calling back to us (Military Department Operations Center) and telling us what's happening. It gave us another look at the situation, in addition to the law enforcement assessment of the emergency. That was the Forward Liaison Element. At any time when an emergency situation began to go beyond the resources of that department to handle, we would have, because of the presence of the Liaison Element, that information, and we kept the Emergency Planning Council advised. By the time it got to that level, either Meese or someone in the governor's office or the governor himself, would talk with the law enforcement official or the elected official in that jurisdiction and decide what type of support was required, whether it was Highway Patrol, Department of Corrections, or whether it had to be the ultimate, the Military Department. Then, of course, we would act accordingly.

Sharp: Was Mr. Reagan especially interested in all of this work?

Palumbo: Oh, absolutely. Absolutely.

I must tell you, and I'll say it very frankly, my family have been dedicated Democrats for years, and I was throughout my entire career. My first four years in Sacramento, I guess I became somewhat frustrated at what I was seeing. During Reagan's first four years, however, I saw some very realistic things being done. I had a close working relationship with him, and later on, of course, I was working in his office. I have never met a more dedicated, sincere person in my life.

I had a great respect for Governor Edmund Brown, Sr., who I also worked very closely with. I thought he was a tremendous governor, but some of the people around him left a lot to be desired. I didn't think they did him justice.

Palumbo: But in Governor Reagan's case, I have never seen a more dedicated person, a more sincere person who surrounded himself with equally dedicated staff and support people. That just drove us, those people that were closely associated with him, and particularly the sensitive areas, the critical areas--times when we had the universities all up in arms, and when we had the Cambodian air strikes, to see him personally sit there and articulate the problems and solutions. Every one of the emergency oriented department heads was able to make recommendations, but the final decision was his. But it was done after everybody had an opportunity to put their cards on the table.

I've never been more impressed with a person in my life. I think he surrounded himself with quality people, people who could organize and separate the chaff, so to speak, and get away from all the fringes and get immediately to the issues. Meese was very articulate in that regard.

Sharp: We've been impressed with the interviewees that we've been speaking with throughout the project, their skill and their work.

Palumbo: Absolutely. I think he enjoyed more of the public safety aspect of his job than anything else. Later on when I worked in the governor's office, that became very apparent to me. After our work on the Select Committee and its report, "Controlling Crime in California," we recommended the establishment of a Public Safety Agency--I think if he had a choice, his choice would have been to be the agency secretary of the Public Safety Agency. That's the job I believe he wanted the most.

Sharp: He would enjoy this, do you think, perhaps more than maybe some of the legislative haggling?

Palumbo: Oh, absolutely, absolutely. But he would and did handle that very well, because of his orientation. Just a masterful person.

The Tactical Group/Training Program Task Force Subcommittee,
1970; Renewed Support for Mutual Aid

Sharp: I want to move you on a little bit, to 1970. I had seen some minutes, and I sent these to you. They were of the Tactical Group/Training Program Task Force sub-committee. Do you recall that at all?

Palumbo: Tactical Group--?

Sharp: It's quite a mouthful. [shows him the minutes]*

Palumbo: Oh, this. August 25th of 1970.

Sharp: Let me just go over it--it discussed joint command in the counties when there might be disturbances, which is some of the stuff you've been talking about. I was interested, first of all, in the selection of the types of people and their home agency, and how it might have been decided to involve this particular group of people--there are people from the California Disaster Office, from, for example, yourself in the Military Department, as well as Captain J.F. Chaisson, and then the inspector from the Highway Patrol, as well as people from the San Francisco Police Department, Oroville, and Alameda County--how this group might have come together?

Palumbo: That's a unique thing. If you will recall, I mentioned some thing about our approach to planning and how we determined the degree of troops, the number of troops, that a jurisdiction would need. That was the first phase.

The second phase would escalate it to, say, two thousand to five thousand or ten thousand, if necessary. From the time that that occurred, the inception of that philosophy, we had continuous request for assistance (and somewhere in my records I could make that number available to you--the number of times we were called out to assist local jurisdictions). A considerable number of man-days were executed in that regard.

With that continuous employment of National Guardsmen over a period of time, several years, it became evident we had to change the system--how long can the guard do this kind of thing? You're talking about people who have a primary job as a civilian, and every time we call them to duty, we take them away from their civilian job. We execute a mission and commit people to an effort for four or five days, sometimes as long as two weeks. How long can we continue this?

So a concerted effort was made to stimulate the law enforcement community to develop some other solution of providing law enforcement reinforcements on a small-scale basis thereby relieving the need for

*This reference is to minutes of a meeting of the group noted above. A major issue at this meeting was General Palumbo's plan for recommended procedures for the employment of California's riot control forces. These minutes were found in the Ronald Reagan gubernatorial papers, which are located at the Hoover Institution.

Palumbo: almost weekly commitments of National Guard personnel. These people that were brought together represented the various law enforcement agencies, either on a regional or state-wide basis like the California Peace Officers Association. Captain Chaisson really worked for me. He was kind of my recording secretary. Larry Gillick, Sheriff Gillick, was also a Regional Law Enforcement Coordinator representing all the law enforcement agencies in his region (Butte County).

We presented a plan whereby several law enforcement agencies would contribute certain offices to a state-wide quick reaction law enforcement force that would be on call, about a thousand police officers; they would be the state's first reaction force once a situation got beyond the capability of the local city police or sheriff's resources. The force would be augmented by the Highway Patrol, and would consist of law enforcement officers.

Sharp: How did that turn out? Was this implemented?

Palumbo: There were a whole host of things that came down. Legal problems were identified. Where do we get the money to develop the command and control? Where are those police people and required equipment going to come from? It was massaged and discussed for several, several months. We finally came to the conclusion that there wasn't a practical way of funding it.

But another alternative was available. Suppose we looked at the mutual aid and determine, "How many times has a jurisdiction experienced mutual aid, beyond that which is just normal?" Three or four policemen going to another jurisdiction for one incident. That is mutual aid, but not of the scope we're talking about. What we're talking about in this case is anything beyond three days and a sizeable number of officers.

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Palumbo: From our research, we established that mutual aid can be effective over an extended period of time if it had funding to reimburse the contributing or participating agencies from the state. We established a formula based on tax base and the population that a jurisdiction could have so many people employed from another jurisdiction with the state paying their salary and repairing damaged equipment and the rest of that.

We did put together a piece of legislation (mutual aid funding package) about a year later. It did not go anywhere. But it would, in my judgment, have solved tremendously a serious problem on how do you back up a local department or sheriff when an emergency gets beyond their capability to handle.

Sharp: Why didn't it go anywhere?

Palumbo: It had a tough time in the legislature. It just did not seem to be a critical issue with them. It needed to be articulated but we were running out of time, as far as the administration was concerned. It was getting near the end of their eight years. Further, there was a strong feeling among administration officials that we were not going to be able to get the Public Safety Agency created.

In my judgment had the Public Safety Agency been created that would have been the very finest thing that could have happened. That would have replaced the Emergency Planning Council. That would have given the governor one single agency to look to, state agencies one agency to look to, that would be oriented towards all types of emergencies. I appeared before the Little Hoover Commission* for about a four and a half hour presentation, on the Public Safety Agency and the mutual aid funding proposal. Their statement at the end of all that, "Yes, sir, that sounds tremendous. That's the right way to go, but we want to give it to a new governor and a new administration before we allow a major reorganization of the state government in that regard." That killed it. And the new administration, during the transition from Reagan to Jerry [Edmund G.] Brown, Jr., they were not sensitive to the problem. Even though we were not politically oriented, we were trying to say to them, "You need to look at this in a serious way." I gave them every research paper we had done on it.

I was looked upon with suspicion: "Well, you're from the Reagan administration, so what you're saying really can't be that applicable. We're not going to buy anything Reagan did." That was the way it was put to me.

Sharp: Do you remember who carried the legislation for the mutual aid funding?

Palumbo: I'm sure I've got it in my files. Yes, I do. [Assemblyman Robert J.] Lagomarsino.

Sharp: Was it a matter of your going to him and saying, "Here is the scoop on this," and, "This is how we think you ought to play it?"

*The full title of the Little Hoover Commission is the Commission on California State Government Organization and Economy.

Palumbo: No, it was presented to him, and he was involved in a lot of discussion. Mutual aid funding was one of the recommendations by the Committee on Law Enforcement Problems in its report on "Controlling Crime in California." Immediately following the termination of the committee's work, I was appointed as a Special Assistant to the Governor for Criminal Justice and State Government Organization. One of my jobs was to take the applicable recommendations from the report, find a legislator to author them, and then assist him accordingly. Lagomarsino carried a number of those bills, and that was one of them. All I did was sit down with him and acquaint him with the research, the background, and he picked it up from there. Whenever I could help or appear as a witness before a committee I got a call from his administrative assistant.

The California National Guard and Handling Campus Unrest

Sharp: It's interesting, I've been talking with some of the 1970 re-election campaign staff, and it was, I think, almost a major concern of some of the members of Mr. Reagan's staff about the demonstrations that were occurring in early 1970, working towards the general election. At places where Governor Reagan had gone to speak, there were demonstrations against him. Is that the kind of matter that you would have gotten involved in as well?

Palumbo: Yes. Absolutely. In fact, in those years, any elected official, every constitutional officer, where any indication of a threat was developed, we would be advised and alert the California National Guard in those particular cities. We would then send specially trained National Guardsmen to that place where the constitutional officer was going to speak and check out that area, make sure there were no bombs or potential detonations of any kind. We were able to clear that hall or that building, or whatever it required.

Also at that time, just before the general elections, there were serious threats against all the nominees for constitutional offices and the incumbents. We instituted, by direction of the governor, a major effort to protect each of them, nominees as well as incumbents, during and prior to that general election. We had people physically occupying their homes. We escorted the individual to and from his residence to his place of work. For a period of in excess of a month. This included the positions of

Palumbo: governor, lieutenant governor, superintendent of public instruction, secretary of state, treasurer, state controller and the attorney general. Protection was provided on a 24-hour basis for each of the incumbents and opposing nominees and members of their immediate families. That was a major effort. We were scattered all over the state of California.

We had our situation board, of course, maintaining all pertinent data on each and every one of them. I don't recall how many there were, but it strikes me that we had about twenty-eight or twenty-nine locations of those plot boards. The superintendent of public instruction--I can recall--we actually brought in a trailer parked in the back of his house.

Sharp: That's Mr. Rafferty?

Palumbo: Rafferty, right.

Sharp: Why was all this going on?

Palumbo: Well, there were threats against their lives.

Sharp: Why?

Palumbo: Who knows? And at that time, of course, the SLA [Symbionese Liberation Army] was very actively involved. There were all kinds of things.

Sharp: I've worked up this chronology, things that were going on through Mr. Reagan's administration, '67 through '74. There were some disturbances on the campuses, when Mr. Reagan came in, right in 1967. And the two assassinations in 1968, Mr. Kennedy and Martin Luther King, Jr. The violence at the Democratic national convention in August of '68. Then with the Vietnam and the Cambodian war situation.

Palumbo: The air strikes.

Sharp: And the air strikes. There was a lot of unrest about some of these situations. I guess I'd like for you to somehow put together the development of this work that you were creating, you were generating. Was it in reaction to all of this unrest that you were seeing, or was it just time for it to come about somehow?

Palumbo: I guess I was in a very good position to judge that. Because before I could recommend any commitment (of California National Guardsmen) to my commanding general or to the governor's office, in most cases I would physically visit with the local chief or sheriff and hear first hand his intelligence evaluations of the situation. Then, through the department using various intelligence sources of our own you could get some verification of their estimates of the potential of a given emergency.

I can recall during the Berkeley demonstrations, for example, one of the intelligence officers from Oakland Police Department saying, "This is what the demonstrators are going to do. They're going to come to the AFEES station, the Army Forces Entrance and Examining station, and they've got poles sharpened as spears. They've got vials of acid, and they're going to throw this acid in the eyes of the police officers on the front lines." It's these kinds of things that they were confronted with.

Now, how do you separate from truth and fiction? Oakland and Berkeley Police Departments had their informers, who served them well in these emergency cases. Some of them infiltrated the various groups, and picked up valuable information first hand. Most of the intelligence information and law enforcement evaluations of the potential problems were factual and generally timely.

Without exception, that's the way it worked. It was never something that we'd say, "Well, we are assuming a potential here because we think it's going to be this way." There always had to be some concrete evidence of a clear threat and a potential life-threatening situation.

Even at the universities, when we had the demonstrations--the same clear threat had to be established. If you recall, when Nixon went ahead, President Richard M. Nixon, authorized bombing raids outside of Vietnam, in fall 1970, we had major demonstrations in two or three of our universities. We were approaching--I've forgotten which particular day, but I believe it was about midweek--we actually had hard intelligence from a number of universities that about thirty colleges and universities within the state of California were developing large potentially dangerous demonstrations. Well, that information came to us as hard intelligence, pretty well evaluated, from people who were actually at the scene, saying, "I've just come from an organizing committee, and they're going to do this."

Palumbo: I can recall very clearly going to the meeting with the evaluated intelligence that we had, and the intelligence from the Highway Patrol, and the Department of Justice, and all the others, and all of that being presented to Mr. Reagan and Mr. Meese, and a decision being made that, "I'm going to close the universities tomorrow." In discussing the various options and alternatives in an emergency session of the Emergency Planning Council--it was John Kehoe (special consultant to the governor) who proposed closing the universities until the following week thereby eliminating the availability of large numbers of people.* It was his evaluation that many students would take the time off--go home, etc., rather than remain at school and demonstrate for something they weren't really supporting or half-heartedly supporting.

Up to that point, I can tell you, we were in the throes of some serious actions. That decision alone, to shut the universities, turned it all off. There were no more demonstrations, because all of a sudden came the free day, and the students went home, or they went somewhere else. The few that did remain were not enough to rally around. The potential of a confrontation with law enforcement agencies or the California National Guard was just absolutely wiped out. In my judgment--that day I came home and I told my wife--"That man's got to be a genius." He heard all of the pros and cons, courses of action, made an extremely important decision.

The following week, when the students returned to classes, that next Monday, the sting was all gone. Cool heads prevailed. The international situation wasn't something the governor could do anything about; what the national government was doing was out of his control.

That's just an inkling of many, many, many circumstances or emergencies that came to the attention of the governor's office. Simple requests like, "We need assistance" didn't necessarily trigger commitment of state resources. Support wasn't provided on that basis, just the individual's word or a call from a sheriff saying, "The world is coming to an end and I need you down here." That was never the case.

*See interview with John Kehoe, "Advocacy for Education, Consumerism and Governor Ronald Reagan, 1966-1974," in Legislative Issue Management and Advocacy, 1961-1974, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1982.

Palumbo: Substantiating an emergency situation was the purpose of those liaison types. The minute something began to develop, before it got to major incidental level, the liaison team would be dispatched to the law enforcement agency where the emergency was occurring. We standardized our terminology so that we could define at the local level what was a minor incident, a major incident, or a serious incident. A certain amount of local commitment would be made in an incident in order to define the degree of a major or serious emergency situation. Our liaison team would call back that information indicating: "They've gone from this stage to this stage." "They've got the total department committed," or, "All of their resources are committed," or, "They're within a couple hours of full commitment."

It was another perspective that didn't come directly from the law enforcement agency involved because sometimes if you get an emotional chief or sheriff, in his judgment, the world may be coming to an end, but in reality, when you put his situation into perspective with the rest of the county and the state, it's really a minor incident. You've got to be prepared to give the governor a clear picture of what's going on. Is this sheriff or this chief of police a little emotional? Inexperienced? Or has he allowed a situation to get out of hand by failing to respond fully with his own resources. The governor cannot react directly, prematurely, and commit guardsmen without regard for an emergency declaration for which he must have good intelligence accordingly.

Sharp: A couple of questions that it prompts. You haven't mentioned Herbert Ellingwood, who took over as legal affairs secretary after Mr. Meese became executive secretary in 1969. I wondered how he might have been involved in this planning and communication that you discussed?

Palumbo: Totally. As Mr. Meese moved to the chief of staff assignment, Mr. Ellingwood became the legal affairs secretary and our main point of contact. Although I must tell you that Meese never quite got out of that role. When it came to making those decisions, he was the chairman of the Emergency Planning Committee. When it came to making a decision, he was on the scene. If, by some chance, he was out of the state at the time of an emergency situation, then obviously Ellingwood was the action man for the governor.

Accessibility to Meese during those days, when he had all these other state problems to deal with was very difficult. But with Ellingwood, you could always get to him. Obviously, Ellingwood would then be the first one we would approach.

General Notes on the Role of the National Guard: The Example of Kent State, 1970

Sharp: The other question is really quite a different kind of question. It's about Kent State.* I'd like you, if you can, just to tell me what the effect of it was.

Palumbo: Let me go back a step for just a second. I mentioned to you earlier that one of the serious problems that we had initially in getting to law enforcement, and I think that even exists today (because of a lot of the turnover of people, and you've got new approaches to life) was the suspicion on the part of the local officials that the military intended to declare martial rule, and how we dealt with that.

The other part that I mentioned was the statute we have in the state of California designating authority to adjoining counties. Now each state code is organized differently. Initially, when the state codes were established, state statutes were uniform, but over the years, as states massaged their criminal justice system, each developed differently, there are no two alike. I've been on national committees that reviewed the whole spectrum of emergency operations in the country, and tried to develop for the national government, particularly the Department of the Army, military support of civil authority approaches that would be uniform. It's almost impossible. Because what you find is that each state has tailored its particular laws to fit its circumstances and desires. That's what government's all about, in any case.

The effect that these different statutes have on the National Guard is overwhelming. Because in each state, the National Guard has a dual role. One, which is the federal, and it's controlled by the president and the Congress; very well defined. In cases of national emergency, they can call them up, and they go fight the war just like the active army.

The other role is under the supervision and control of the governor for state emergencies. Each state has its own statutes that identify how that will be accomplished. In addition, as an administration changes, the philosophy of the governor and how he'll use his state guard is likely to change.

*On 4 May 1970 the Ohio National Guard killed four students at Kent State University after a campus protest.

Palumbo: In regards to philosophy then, if you look at where we were with Governor Brown, Sr., when Governor Reagan came into office, we had to go downtown and sit with Meese and go over our entire standard operating procedures. In particular, how we would use the various degrees of force, because that's a very key issue. In local departments, when we talk about degree of force, in law enforcement, you're talking about, when I pull my gun, when can I shoot? Okay? In the military, we talk about some ten or fifteen items that someone has to tell us, "This is the governor's policy." Because the individual soldier or commander doesn't make those policies.

But under the state statutes, which is how we operate in state emergencies, each one of the states is a little bit different. The philosophy exercised by the National Guard of a given state is dictated by the governor of that state.

I can recall in the latter part of the '60s, some state governors saying, "I'm going to order my National Guard to shoot at anybody that is stealing a television during a riot situation," for example. "I'm going to direct my people to shoot." Well, that's obviously a maximum degree of force. Once that philosophy is developed or established by the governor, the National Guard operates in field situations accordingly. That philosophy also dictates whether or not the guard is in support or in control of an emergency.

Early on in my role as the chief of the Office of Emergency Plans and Operations, I met with a number of my counterparts in the other states. We had the same job. Every state had a planning team. In some states they had three planners. In ours, because we were larger, we had nine. We went to a two-week civil defense orientation, I guess about the second or third year that I was in that business, at Battle Creek, Michigan, which was the civil defense school. The course dealt with plans and operations. They called it Plans and Operations I and II. Essentially they discussed methods to handle disasters, particularly national disasters.

Quite often we'd have night sessions with the other military support plans officers from each of the states. From our discussions I found that in the Southern part of the country, for example, when the state police are called in for a local disturbance in the city or county, they move them in and take over complete control. The local chief or sheriff becomes subordinate to that state chief of police and his designated representative.

Palumbo: We also had from the state of Ohio the principal military support planner, who later on became the assistant adjutant general and was on the scene and in command at Kent State when that occurred. We had a long discussion. For example, I had an opportunity during our open session to discuss the philosophy of California and how the guard works in support of civil authority, and that we don't take control. We are there to support, and we take our instructions from the chief law enforcement official. In Ohio, however, their philosophy was that they (the Ohio National Guard) move in and they take control. The chief and the sheriff work for them. In essence they effect a degree of martial rule.

That, in my judgment was wrong and even now I still feel the same way. I had plenty of people with whom I have discussed this, the military support plans officers from Oregon, from the state of Washington, Colonel William Baird, and many others; all of us had within our state the same basic philosophy; the military provides support to civil authorities. That's the way we understood our rules of engagement. We felt that was very important. Because the degree of military training provided a guardsman will not qualify him simultaneously to be one, a police officer, two, a fireman, or a public utility/vital services operator. The guard, when called into an emergency support role, can only provide a minimal level of service. If your police department strikes or walks out and, because of threats to life and limb, the governor orders the guard to go in there and provide protection for its citizens, all you're going to get is minimal level of service. We are not professionals in that regard. We are trained as a team. The public cannot expect any more than that from a National Guardsman.

In my judgment, that's probably the greatest single attribute that the guard has. It's not an expert in any of those fields. In Watts, it proved to be our saving grace. People understood that we were just trying to do our job, protect citizens, their property, and re-establish the peace. And we got tremendous cooperation out of the local people--to the extent that a lot of the rioting stopped immediately when we were deployed, and we were assisted by the people who lived in that community.

You can look at many of the military support of vital public services missions that have occurred since the Watts riots; major strikes in New York; in Wisconsin (I was involved in extensive studies on each of these events for the national government), in prisons, where correctional officers walked off the job at midnight, and the National Guard had to come in within several hours of notice and take it over; take over a mental institution,

Palumbo: to include intensive care units; none of these support tasks were they qualified to do; but all accomplished under civilian control. Because of the circumstance of the emergency situation we had cooperation even from inmates. We were not a threat to the inmates. We were there trying to protect them. It's a kind of well-established credential that the California National Guard has when it comes into an emergency situation, it doesn't take sides. The minute it takes sides, then it becomes a threat and its effectiveness is lost.

That's why, in the case of strikes, the employment of the guard had to be massaged by the governor very carefully. He cannot prematurely just send them in or he gives the impression that he wants to break a strike, that's illegal.

If it got to a point where it became, because of the absence of law enforcement, a threat to life and limb of the local citizens, then the governor has no choice and he acts accordingly. He's got to put them in there. You'll find for the most part that the majority of citizens will cooperate.

Obviously, you can't have a guardsman perform all the things we expect a police officer to be. We're not going to be able to do extensive murder investigations, although we have some people who could for a short period of time accomplish that. If fire services go out, we don't have all the sophisticated dispatch people, although we have a few that we could draw on. But essentially, we can and do perform a minimal level of service.

Sharp: At Kent State, then, was it asking the guard then to do something that they shouldn't have been doing, to be there? Is that what you're--?

Palumbo: No. What I am saying is that the governor's philosophy of the National Guard taking complete control of an emergency situation to include control of law enforcement, etc., is wrong in my judgment and in a large measure is a principal reason for Ohio's difficulty with the Kent State situation. Further, as I understood what actually occurred, the Ohio National Guard team employed at the university campus had initially been employed extensively at another location, then suddenly re-deployed to the university campus without benefit of rest or re-orientation. Fatigue certainly became a factor as well as the lack of adequate command and control. They were not fully oriented as to the circumstances of their deployment and the conditions to expect in that deployment.

Palumbo: Let me tell you, during the Watts riot, the California National Guard shot and killed a number of people. But they only did it as a last resort, when the lives of the people at the checkpoints were directly threatened. We had civilian vehicles that actually ran the established military roadblocks. They were out to kill somebody.

There's a tremendous difference between what occurred in Watts and what occurred at Kent.

Sharp: Oh, yes, I understand that.

Was there any measurable effect on the public feeling about the California National Guard as a result of what happened in Ohio?

Palumbo: Oh yes! There was resentment for National Guardsmen as a whole--charges of poor training, etc. Unfortunately, all National Guardsmen wear the same uniform. The general public normally cannot distinguish a National Guardsman from one state or another, a reservist from an active duty soldier, etc. I believe the resentment we experienced closely compared with that experienced by all military personnel as a result of the Vietnam events. Certainly some military people made mistakes but because we all wear a military uniform, we all assumed blame and responsibility. Obviously, that isn't the true case. As I discussed earlier, the California state statutes on lines of authority or delegation of authority during emergencies pertaining to law enforcement are clear. That coupled with our governor's philosophy of military support to civil authority precludes such a situation like Kent State occurring in California. There is no way that could occur.

Sharp: I don't think that's general knowledge.

Palumbo: It is not.

III FEDERAL AND STATE DESIGNS FOR LAW ENFORCEMENT

Work With the Law Enforcement Assistance Administration

Sharp: I'd like to take you on to another topic. I have a couple of roles down for you that took you out of California, I think. In '71, the first part of the year, you--this is very long--you were Law Enforcement Program Specialist and Chief of the Riots and Disorders Section, as well as in charge of Police Public Relations Programs. (That was part of the Law Enforcement Assistance Administration, which was an enormous umbrella organization.) Then at the end of the year, you were a senior state representative from Nevada and Hawaii. I was wondering if you could just make some comments about what this work was, especially what sort of effect it had on the California work.

Palumbo: The opportunity to work for the Department of Justice, and in particular, the Law Enforcement Assistance Administration as a specialist in the civil disturbance area and police organization was a real challenge. By that time, I had accumulated quite an operational expertise in how to organize large departments. I became the deputy chief of the law enforcement initially and was assigned a substantial discretionary grant funding program for improvement of law enforcement operations to include community relations.

I also had an opportunity to work with Clarence Kelly, who was the chief of Kansas City Police Department and later on became director of the FBI. We put together a series of presentations and went all over the country. We spoke on mutual aid, and how California used that to assist the local department, and I talked on police operations and organization and how to handle large influxes of either law enforcement or military people during emergency operations. We went to Chicago, Philadelphia, New York, Florida. We went all over the country for a period of six months.

Palumbo: I had an opportunity to review the organizational structure, the department's staffing, making recommendations for changes here and there, along again with Clarence Kelly. That was our primary job.

Then eventually the National Republican presidential convention was scheduled in San Diego. I was asked by Governor Reagan to come back to California and coordinate the law enforcement agencies involved. They were going to borrow me as a federal official, which the law provides. It even does today. Where you have a certain expertise, and you're a federal official, a governor can ask, "Let me have this person for a period of time to do a certain job. He has the expertise and I need that kind of assistance."

I was asked to come to California and assume the role of overall coordinator for the city and county of San Diego to handle the security aspects for that convention. I came back and, of course, I worked out of Burlingame.

My other role, the federal side, I was also the senior representative for the states of Hawaii and Nevada. That was for their criminal justice grants.

I suspect it was a couple of months after I came back to California, and I had moved my family back, when the decision was made at the national level to transfer the convention from San Diego to Miami Beach. I wasn't interested in going to Miami Beach. I was asked to come back to the Military Department as the inspector general for an interim period of time and then to assume a role in the governor's select committee. I spent, I believe, about five or six months as the inspector general of the Military Department. Within a few days of my assignment I undertook a major investigation of a senior general officer of the California National Guard. This investigation consumed every moment of my time while I was with the department. Shortly after completing the assignment, I was reassigned to work as the vice-chairman of the Governor's Select Committee on Law Enforcement Problems.

The Governor's Select Committee on Law Enforcement Problems,
1972-1973

- Sharp: I don't want to keep you too much longer. I'm sure you have a lot to do, but let's go ahead and talk about this task force, formally called the Select Committee on Law Enforcement Problems. Now, from what I can tell, it was active just about a year (1972-1973).
- Palumbo: Just short of a year, that's correct.
- Sharp: Just short of a year. I went over the recommendations, and now they're pretty familiar to me. Some of them, the mandatory prison sentence for crimes using guns, as well as those involving narcotics, the sale of narcotics, the Public Safety Agency, which you talked about, the mutual aid plan for police, which we mentioned already, the abolishment of the exclusionary rule, the abolishment of the probation subsidy, and ninety-some other recommendations. These are familiar in the sense that some of them have been implemented. Some of them actually have become law.
- Palumbo: Yes, and some are still being pursued.
- Sharp: Some are still being pursued, yes.
- Palumbo: Particularly the exclusionary rule. Incidentally that came up recently in the United States Supreme Court.
- Sharp: Yes, that's a very controversial one.
- Palumbo: Oh, absolutely. Very emotional.
- Sharp: Very. Maybe you could just make some general comments about how the committee went about its work.
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- Sharp: I've talked to several different people about the many task forces that were ongoing during the Reagan administration, and they all worked differently. They were very individual.
- Palumbo: This one was rather unique, in that it had no limitations placed on it. It was required to brief the governor and principal members of his staff and cabinet on a weekly basis. In addition, a steering committee was developed, and again on a weekly basis the steering committee provided direction to us as to whether or

Palumbo: not a particular item of business should be pursued or develop more detail in that regard. It was an enormous effort. It was well organized. Our chairman was a judge, and an attorney.

Sharp: That's Mr. Edwin M. Osborne?

Palumbo: Mr. Osborne. We had individual members who came with a different expertise, well-diversified, different backgrounds, and each had their own philosophy as to what is the criminal justice problem. It took us about five to six months, extensively individual work, trying to collect these items. We kind of generally had an area that we were given responsibility for. But when we came together, we massaged all items, so that each of us had an opportunity to influence the others.

Again, there were no limitations placed on us by the governor or his staff. If we wanted to bring people in we could, and we brought in experts in the think-tank business, of every persuasion. We had the opportunity to visit the prison system and get down with correctional officers, with probation officers, and we interviewed extensively throughout the state. Each of us did that.

Then we had continuous follow-up, as we sat down and discussed a proposal, outlined what we had, what needed to be done with this, where the loopholes were, the shortcomings, and we'd go after people with an expertise to fill the gaps. There were many aspects of this committee's work that, well--we'll best describe as somewhat overwhelming. Throughout the entire period of its existence, its members received a genuine warm reception, outstanding cooperation, and continuing encouragement from the many groups and individuals with whom they had contact. From every sector, government, business and private, there seemed to be a real sense of great expectations of results from their efforts. Certainly much of the credit for this excellent working environment was directly related to the governor--his personal support and continuing involvement. When the committee's recommendations were finalized and submitted, it appeared that they were eagerly accepted as an excellent blueprint for action by the Reagan administration but more importantly they became a key summary of the Reagan philosophy and overall strategy for law enforcement problems during his term in office as the governor.

Incidentally, I have retained all the working data of that committee, and it fills a volume in my study, a whole wall, including details far beyond that which is identified in the final

Palumbo: report. We did extensive work in the court system. We looked at the state government organization, particularly the Office of Criminal Justice Planning, its role and how it was being pursued. The California Council on Criminal Justice and their working relationships. You'll find recommendations pertaining to OCJP, a number of changes that we recommended. Those changes were implemented by that January (1974).

Extensive changes were recommended in the courts, like computerizing the system. We actually got down in the court system and followed an individual throughout various aspects of the system. We did a schematic on the complete criminal justice system, showing an individual entering the system--from the time he was picked up, where he was arrested, and then the step by step process through the entire criminal justice system, the police, the courts, corrections, probation, rehabilitation, the whole schmear. Then a detailed look at each step to see what improvements could be made or elimination of certain stages or procedures. That has never been developed beyond that effort, unfortunately. There just wasn't sufficient time remaining of the Reagan administration to make a considerable follow-up.

The committee's report would have been an ideal effort early on in the administration, where you've got two or three years to pursue it. But it was in its second term, and darn near in the last year, unfortunately. We made major efforts in regards to implementing as many of the recommendations as possible but the process for major change is slow and meticulous at state government level. It was clear that the attitude of the Jerry Brown, Jr., administration was completely different. Then you start all over again. That was very unfortunate.

But I guess if I had to say what was different about this committee work than any of the others, it would be that there were no holds barred. If we needed dollars to get somebody here, they were made available. There were no restrictions on who we talked to or what they said.

Sharp: Why was it, do you think, that there was so much leeway that you were given?

Palumbo: Well, you mentioned something earlier about "use a gun and go to jail." When that law was first implemented early in the Reagan administration, the governor believed it would be enforced accordingly. Later on, it became quite evident that loopholes were being applied in the judicial system which in effect made a mockery of the law.

Palumbo: Probation subsidy was something that his administration did not develop, but it too was implemented early on in his administration. Another case of an excellent idea being submerged by loopholes and plain abuse.

When you got down to the nitty-gritty, is that program working and what is it doing--it was turning criminals back out on the street at the local level without adequate supervision or a program to support his re-entry into the community. The governor felt that improvement in the criminal justice system was the most critical part of his administration's record, and he wanted to leave something for a new administration coming on, or implement significant changes that would be a significant part of his administration.

That was the direction we were given. The high-powered support we got was just overwhelming. There were no holds barred. What we needed, we got. If we said we had to have an agency secretary to do this, it was done. We never ran into any obstacles.

Sharp: Do you think that Mr. Reagan's interest in this committee was supported by some of the problems that he'd had in terms of demonstrations throughout his administration?

Palumbo: I'm not so sure the demonstrations had that kind of effect on him, because most of those were oriented to federal policies. We were really talking about the hard-core life and death issues and day-to-day living within our social environment. That was very frustrating. The lack of understanding and support by people in the university system as to the national government's goals caused the governor to become the focal point. Obviously, the local people are going to take their frustrations out on the nearest high ranking official person, and the nearest person happened to be the governor. His whole philosophy, I think, about, "you need to work," "there should be less welfare," and "pay your way" approach irritated a lot of people. Because that's not the direction we had been going in this state.

In past administrations, few governors had been successful in restricting or limiting funding to the universities. Governor Edmund G. Brown, Sr. tried and failed and thereafter wouldn't touch it with a ten-foot pole. Reagan comes along, and he did cut back funding and proposed tuition. The universities had a free rein up until that point. I'm sure that caused some of the problems with the universities.

Palumbo: The fact that he would move quickly, with state support, when a threat developed against the life or property of its citizens, also, I think, caused some concern. I see that at the national level now. He's a man of conviction. He believes in our systems and pretty much says and means what he says. People are not used to that in a politician.

Sharp: Are there some of these recommendations that were sort of your favorites?

Palumbo: Well, yes, the public safety. I am convinced that this state, with the multitude of emergencies that it constantly experiences needs to get ahead of that power curve. In this last administration [Governor Jerry Brown, Jr.] it was so evident. For example, we went through a drought, and if we had an agency secretary (for public safety) and people that were oriented to forecasting the potentials of those emergencies, as opposed to always reacting to them, we could have saved our citizens tremendous concern and worry and financially saved ourselves considerable. We had all the ingredients in 1974 to create that agency.

And the irony is that, prior to Governor Reagan coming into office, Governor Brown, Sr., had a Public Safety Agency. It wasn't constituted properly. It had Veterans Affairs in it. It wasn't really a spokesman for the governor. However it was disbanded under the new administration. Reagan. They came in, and they did a reorganization.

Sharp: I thought there was one.

Palumbo: Oh, absolutely. All we had to do was to administratively just move some of the departments to the right place and give each agency secretary the capability to develop existing technology, the ability to do research, development and forecasting and the authority to direct some state agencies with resources accordingly. The Highway Patrol, the military, and the rest of it. He would have had all the ingredients. We're talking about fires, floods, earthquakes, the whole arena of potentials. Even today, we're still going through the same unpreparedness. We've had most recently the Coalinga earthquake. Are we organized for that? No. We just aren't. We have no central direction from the state level. Local government needs assistance.

Sharp: I don't know if you mind talking about current events, but I happened to see your name in the paper yesterday.

Palumbo: I wasn't aware of that.

Sharp: In the San Francisco Chronicle. They have carried quite a few articles now about the Livermore demonstration,* and I saw that you were--

Palumbo: No, that's my son.

Shrp: That's your son!

Palumbo: First Lieutenant Anthony L. Palumbo, the second.

Sharp: Okay, that's your son. All right.

Palumbo: [laughs] That's my son. My goodness, he was in there, huh? Well, he's following in the footsteps of the old man. I have two sons that are in the guard. Both are lieutenants. Tony happens to be in the military police, and the other, Steve, is an engineer. Tony was at Livermore as the Public Affairs Officer.

Sharp: In terms of developing how a correctional facility like Santa Rita deals with a mass influx of inmates, would the Public Safety Agency be involved?

Palumbo: Indirectly. From a public safety point of view, we are talking about an area of interest across the entire criminal justice system--courts and corrections. Specifically, in the case of correctional facilities, the Public Safety Agency would have a lead role in realignment of some of the federal policies and criteria regarding construction policies and operations of such facilities. For example, under existing federal criteria, a minimal space is required for each inmate plus considerable unrealistic complicated additional accommodations that drive the cost factors out of reach of most communities. We must have standards but they must also be tempered with reasonableness. The entire business of establishing standards was a major thrust of my efforts when I was the Executive Director of the Office of Criminal Justice Planning in 1974.

Simply, Law Enforcement Assistance Administration had established a series of guides for states consideration which they termed standards and goals. In California we established some seventeen

*In June 1983 there were several demonstrations at Livermore Laboratory which protested the lab's involvement in the development of nuclear weapons. Arrestees were held at nearby Santa Rita prison.

Palumbo: separate committees each addressing a different aspect of the criminal justice system. I have a copy of that report for your files also. We called our project SAFER CALIFORNIA. It was the last major event of Governor Reagan's administration.

The Office of Criminal Justice Planning, 1973-1974: Getting Under Way

Sharp: Now, with the Office of Criminal Justice Planning [OCJP] that came about the first of January of '74, well, you tell me what it was, but my feeling was that it was an attempt to implement some of the ideas in the task force.

Palumbo: Well, if you'll look at the task force recommendations, it outlined and recommended reorganization of the Office of Criminal Justice Planning. We assisted in the development of the, I think--gosh, I've got to stop and think for a second, who carried that bill. It was a configuration of both Republicans and Democrats, and I believe Willie Brown was the author on the assembly side. I'd have to go back and look at the original. That piece of legislation changed the entire character of the Office of Criminal Justice Planning.

I was very fortunate; during my assignment in the governor's office as a special assistant, I was told, in December (1973), "You're going to become our new director, and you've got a year to get things up and running." So all of December, prior to the time I was actually appointed, I sat down and reorganized the department. I had to make changes immediately upon entering office so that our major emphasis could be on accomplishing other criminal matters.

For example, OCJP had turned back in 1973 to the federal government some \$4 million they failed to spend within the required time. Here we are in the state of California, the largest state, with the most serious criminal justice problems, and we're turning back critically needed funds. It was absolutely ridiculous. During my tenure in that office, we were able not only to recover that \$4 million, but to get other dollars the federal government had available.

Sharp: Through the LEAA.

Palumbo: Through LEAA. And because I had worked there, I knew the people to see, and because we had developed viable programs they were anxious to support us. You'll find that we in the Office of Criminal Justice Planning not only worked with local and state government agencies to provide additional programmed money for them, but accelerated programming like mad.

We set up a system to monitor every grant, and prior to the time that funding was scheduled to expire, within four or five months of the grant's termination, we were able to extract unused dollars, redesignate its availability, and make additional funding available to other agencies who had a need accordingly. So we provided, I'd say we pumped anywhere from \$23 to \$29 million more into the state in the short period of eight to nine months.

But getting back to the OCJP aspect, yes, that was a very effective way of implementing a lot of the recommendations of the Select Committee. While I worked at LEAA, I was also involved in the creation of the national standards and goals. As I said earlier they were guides provided to the states with encouragement to establish some sort of review by which the state could establish similar guidelines.

I established a two-year funding project (SAFER CALIFORNIA) wherein the first year we concentrated at the state level. Here we thoroughly reviewed all the federal guides or standards and goals, adding to them as we felt our state's situation warranted or deleting from consideration those we strongly disagreed with. The second year, we concentrated the same kind of review at the county/regional level. In the final analysis, we hoped to have established state-wide some sort of standard/goals clear across the criminal justice system not only from a practical approach, but for future funding of areas identified as shortfalls as well. So that when funding became available a community had established goals and priorities of programs to address their particular problem.

We brought into OCJP some seventeen experts in each of the criminal justice fields from all over the nation, in addition to those we already had at OCJP. Although there were some very fine people there (OCJP), they were not generally experts in their field. Because I had worked at LEAA at the national level, I had the opportunity to see many of these other people operate. We brought them into California under a contract to work specifically on the standards and goals project.

Palumbo: We appointed, I think I said earlier, something like 470 citizens that were involved in seventeen committees, they'd held working sessions over a period of four to five months. Somewhere in one of the summaries I think I gave you earlier--this one--it tells you the number of hours that these people conducted workshops, etc. We picked up their expenses, but the rest of it was all voluntarily done on their own time. They put an enormous amount of work in on it. Unfortunately, during the second year of that program, the new administration [Governor Jerry Brown, Jr.] came in and chucked the whole works, wouldn't even listen. That's the name of the game, I guess, politics.

Project SAFER CALIFORNIA was never designed to be politically oriented. You have in each committee what I would term extremists, you know, extreme opinions, as well as the very conservative. And a lot of people in the middle. We had representation of each of these committees. No one at any time questioned the selection of these people from the governor's office (Reagan). I was never dictated to: "Put this person on that committee," or "Do this with that committee." Absolutely never from anyone in the governor's office or from my own staff.

I made the final decision. But I did that on the basis of recommendations from a lot of agency directors, state department directors, the criminal justice planning directors, the criminal justice committees in each of the counties, district attorneys, judges and chiefs of police and sheriffs. I tried the best within my ability to put on as many broad-spectrum people with attitudes representing all walks of life that I could find. But again, let me emphasize, there was never one question about who I appointed to what committee. Never.

Sharp: It's a unique kind of project and an office, for sure.

Palumbo: Yes. The approach was unique. No other state had attempted this approach or to undertake the volume--the number of people involved. The second year funding had already been approved by LEAA. My intention was to take those people that I had brought in for this project (experts in their particular field) and eventually bring them into the state civil service system. Eventually, I could reduce the size of the department by getting rid of the people who were not effective. And, unfortunately, we had a number of those. But for the department as a whole, they reacted very positively to the direction that I had set.

Palumbo: The reorganization was completed by the end of January (1974). By the end of February, I had visited all the fifty-eight counties and talked to the various criminal justice regional committees. I had reallocated money that originally provided support of staff at the state level to provide more funds for staff support at the regional level. Where a region initially had one or two people, we expanded that to a minimum of not less than three. Also when I became the director, OCJP had set aside something like \$11 million for evaluation of projects, we cut that back to something much more realistic, put the emphasis on local evaluation of the project and developing ways of keeping track of it. We set up a control center for every grant. That way we never lost a dime due to expiration of funds. We conducted extensive audits along the same lines.

Unfortunately, as the new administration [Governor Jerry Brown, Jr.] assumed office--let me give you an insight. Orange County had its own regional director, which they select and appoint. (That's not done by the state; it's the local representatives who select their regional director). Each county had their own criminal justice committee. All grants that come from the local jurisdiction then, are massaged by that committee, and on the basis of their priority and other considerations, they establish which projects will be funded within their funding level and then eventually the projects come to the state for final approval and funding.

Just before Governor Jerry Brown, Jr., took office, President Richard Nixon had already gone through the Watergate events and had returned to San Clemente. Of course, his arrival at San Clemente posed monumental law enforcement problems that were just mind-boggling. No one outside of San Clemente really appreciated the problems. The visitors, the sightseers, the threats, the whole business. It got so out of hand that the city was forced to apply for a grant to increase manning of its law enforcement department temporarily to be able to handle that increased and unexpected problem. The grant was developed and submitted to the Orange County criminal justice committee. Predominantly Democrats were on that, but again, in this system, it didn't make any difference what your political persuasion was, you were the legitimate body, and that was the way the local community/county wanted it. They approved the application and since they (Orange County) did not have additional funds the grant was forwarded to the state for discretion funding consideration! I received many calls from Orange County encouraging me to support the request for funding. We had some additional discretionary dollars available at state level and I made it available for funding.

Palumbo: The new administration [Edmund G. Brown, Jr.] of course, came in, and looked at that grant and said, "Oh, you're a Republican, and you're doing it for that purpose." And obviously, my credentials were just out the window. I think I was one of the first officials to be released by the new administration.* Ironically, I got a call in December 1974 from a source who was very close to Brown Senior who relayed the information that, "Lou, you'd better be ready for this you will be one of the first Reagan's appointees to go." Hey, he's the governor, and he can do as he pleases.

That was one of the negatives of this business. Politics overshadowed, unfortunately, a tremendous effort that could have benefitted the state in many, many ways and for years to come.

No one was dictating! The standards and goals established at state were guides to be used as a point of departure by local officials. The orientation of the Office of Criminal Justice Planning was focused at the local level.

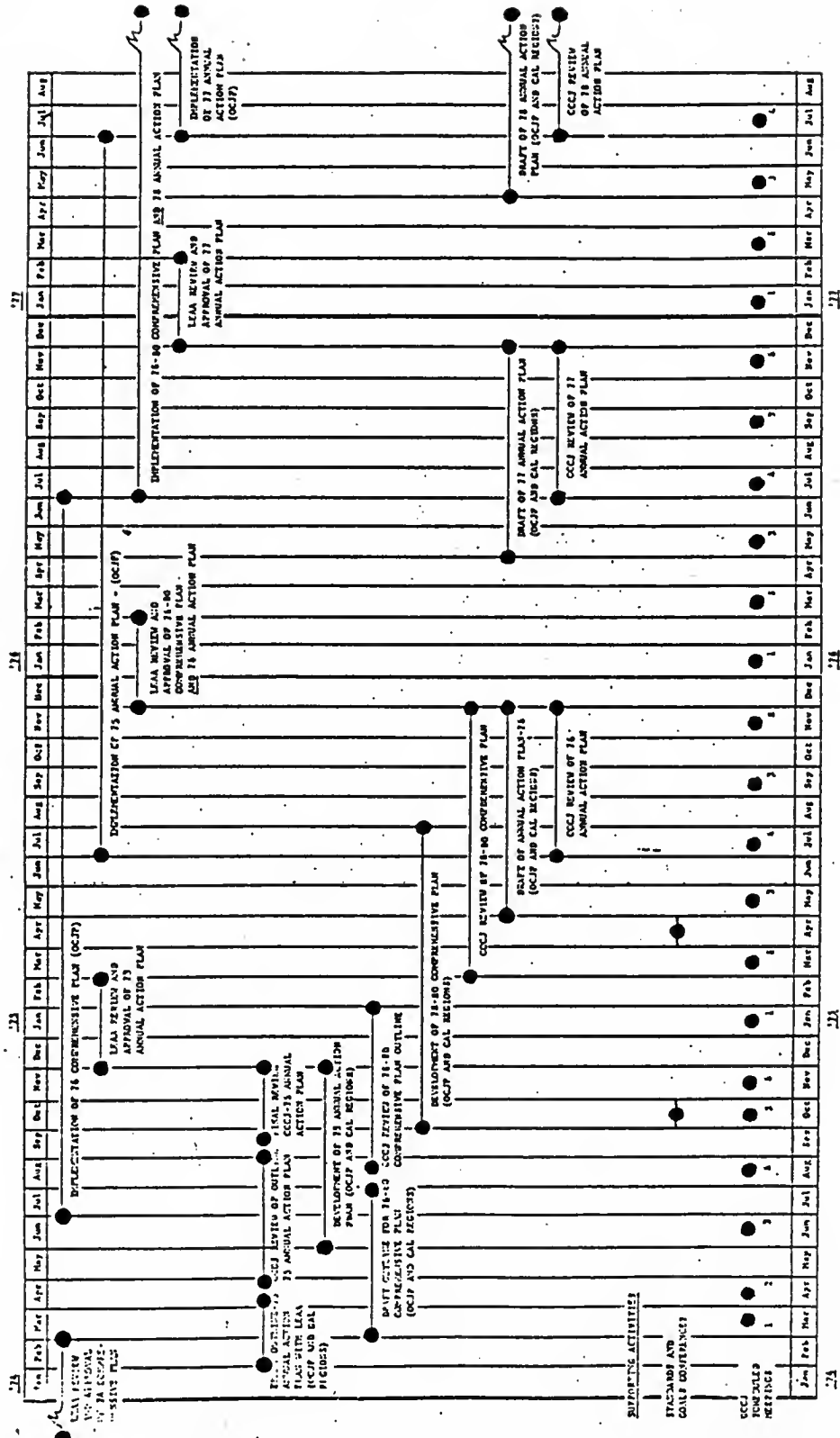
Looking Back at the California Council on Criminal Justice

Sharp: We're just about ready to close, but I want you to sort of draw back and take a look at the CCCJ [California Council on Criminal Justice] overall. When I was reviewing some of their reports, I was amazed at the number of dollars that came into California for just the widest variety of law enforcement and corrections projects, everything from buildings (correctional facilities) to crime control projects, but quite a wide scope. Maybe you could just summarize how you looked at CCCJ and what you saw going on in the effort.

Palumbo: Of course I had two perspectives of OCJP, one before January of '74 and a second after January of '74. Prior to the changes in January 1974 the abuses were there mostly because of the way the law was written. Neither the legislature nor the governor had control of CCCJ.

*General Palumbo used the "Master Planning Sequence Schedule," reproduced on the following page, to outline the plans the OJCP had for succeeding years, had the new administration retained the organization.

СОВЕТСКОМУ НАРОДУ - ПОБЕДА
СТАЛИНСКОМУ КОМУНИЗМУ - ПЕРВАЯ



Palumbo: Once an individual was appointed to CCCJ, he or she pretty well dominated the OCJP working staff of professionals and its director. And in my judgment that's totally wrong. The citizens of California elect a governor and generally he is given the wherewithal to implement actions to attain his announced goals. Criminal justice is unique. Each of the branches of government have a vital interest in the direction and modernization process of the system. Generally, if a citizen disagrees with an elected official, he can vote for someone else the next time around. It's our democratic way of holding an elected official responsible for his or her actions while in office. Other than the fact that the legislature and the governor appointed people to CCCJ, they had little to say. The governor should be accountable and shoulder the responsibility for the overall program just as he does in other fields. His actions can be tempered by the legislative appointees to the CCCJ and other legislative actions. But the agency--the Office of Criminal Justice Planning and its director should be responsive philosophically and otherwise, to serve at the pleasure of the governor.

The legislative changes that occurred in January 1974 brought the OCJP and its director back under the control of one person, the governor. Although the California Council on Criminal Justice continued to review and approve overall programs, the executive director managed.

In a period of one short year I saw tremendous changes in the programs undertaken by CCCJ. Prior to that time, we were funding, through CCCJ using LEAA money, all kinds of exotic experiments. Some of them in the research field were realistic. The bulk of them were not. For the most part in the past we were buying equipment. We were buying things that the local government ought to spend its dollars for, but not research dollars, not dollars intended to improve the system. Equipment does not improve. It prepares you for defense.

Sharp: Can you think of examples of what were worthy projects and ones that weren't quite so worthy? Do any come to mind?

Palumbo: There was a wide range of worthy programs. But you must realize that on a regional basis, they supported programs they felt met their needs. No two regions were exactly alike. Again, I think the real test of a program is that if a local government, through their representatives on the regional criminal justice council, felt that this was the project that they wanted to pursue for their community, then I was willing to go to bat for them, regardless

Palumbo: of how I personally felt. As the executive director, your own feelings have got to be put back somewhat. You serve a higher level than just yourself.

But that was not quite the way the system worked. Decisions on programs and amounts of funding were mandated by the national level to the state, requiring certain dollars to be earmarked in support of specific criminal justice areas. A certain amount of dollars, percentages, had to go into equipment; a certain amount had to go into civic or the public relations programs for law enforcement, for police, for fire, the whole bit.

No two communities are alike. Criminal justice must serve the needs of people within that community. How much criminal activity that community will tolerate depends on that local community. If they want a judge to be lenient, then they are going to elect a lenient judge. Who is to say that's wrong? Certainly it ought not to be at the national level.

Yes, we need to establish guides for standards--if you commit a certain crime, generally speaking, the sanction ought to be somewhat similar to that given in other jurisdictions, but that's what life is all about. That's why we have communities. We develop that kind of need. We have and support police departments that serve our needs. We have and support fire services that serve our needs. If we can't have that kind of impact on public services, then maybe that element is not adequately serving our needs and should be changed accordingly.

Sharp: It sounds like you're supporting block grants.

Palumbo: Absolutely. I think the specific direction--instructions/requirements from the national level to the state saying, "This is where you're going to spend your money," is totally inappropriate. Because it dictates--here I'm (at the national level) sitting up here and I'm telling you what you need. I don't know what you need. I don't know your problem. I don't know how a solution needs to be tailored to adequately address your problem.

Any other approach opens up abuses. We're people after all from all walks of moral persuasion, there are thieves and little can be done to change their circumstances.

There must be balances and checks, but not to the degree that dictates how you're going to establish approaches or specific solutions to these problems. The standards and goals project was designed to kind of guide us in a general direction without dictating or mandating, "This is what you need to do."

Palumbo: The real world is--if you can't tailor a program to fit the needs of the local community, it'll never be accepted. I've had some thirty-five years of experience in the criminal justice, emergency procedures arena. As a result of the Select Committee's work* I got an extensive exposure to correctional or rehabilitational program aspects. And since I also had five/six years in the correctional field, particularly the probationary side, my philosophy may be a little different than the normal law enforcement or probation officer.

Prior to and during the time I served on the Select Committee, I had reviewed hundreds and hundreds of rehabilitation programs both in this state and that of other states. I never found evidence that a program within itself--or the mere exposure of an inmate to a program--changed the opinion or profile of the individual unless the individual truly wanted to change. Most written evidence or findings of these rehabilitation programs alluded to successful attainment of stated objectives or goals of the program. Upon close review however, one would find that during the implementation--sometime late in the actual implementation--those objectives or goals were rewritten to conform to actual performance or experience within the program thereby reflecting a favorable conclusion or attainment of an apparent success of the program. Most of those evaluations were performed by in-house correctional people or individuals who had more than a casual interest in the success of a program--something bordering on a conflict of interest.

Of course the key to successful rehabilitation is the individual. We all want rehabilitation to work. Somehow we must provide him--the convicted person, the inmate--early on during the initial state of his confinement, the incentive or stimulus for a commitment, for a real personal desire to change his modus operandi thereby making him receptive to the attainment of legitimate goals or objectives of such programs. Then and only then can we expect results or success--the individual returns to society prepared to assume a rightful place accordingly. A second and important step is to insure an unbiased evaluation of programs--those rehabilitation programs--principally by persons not connected with the correction system--either emotionally or otherwise.

##

*A reference to Palumbo's involvement in the governor's Committee on Law Enforcement Problems in 1972 and 1973.

Sharp: One recommendation of your committee was the abolition of the probation subsidy.*

Palumbo: Right. That was done.

Sharp: I thought so. I would think that would be fairly controversial, because--

Palumbo: I think the criminal justice system pretty well had probation subsidy up to its neck. Even at the local level. We were paying local government to keep the individual in a probation/rehabilitation program at the local government level, rather than confining him to state prison. We imposed a workload beyond the capability and resources of the local probation office. If those dollars were used to hire additional trained people for supervisory purposes at local government level, the program could succeed. But there wasn't enough money to do that. As a result in many cases the dollars provided to the local jurisdiction were used for some other higher priority and overall the workload just went out of sight.

So you had all kinds of horrible examples that were cited clearly showing the system wasn't working. We could and we did make a terrible case against probation subsidy.

Sharp: I can understand that.

I think that that's all the questions that I have. Are there some things we haven't covered that you think we should?

Palumbo: I don't think so. You've allowed me to kind of expound on a lot of things. I'm sure that 90 percent of it isn't related to your project. It's personal philosophy. I love your approach, though.

Sharp: Thanks.

*According to a press release issuing from the governor's office and dated 1 August 1973, some of the major recommendations proposed by the Governor's Select Committee on Law Enforcement Problems included the abolition of the probation subsidy, mandatory prison sentences for crimes where a gun was used, the creation of a Public Safety Agency, a mutual aid plan for police, and the abolition of use of the exclusionary rule.

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